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International Court of Justice

H0104-0002

Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 8 April 1946, 1000-1300, Lord Justice Lawrence presiding.

WILHELM KEITEL---resumed

CROSS EXAMINATION---continued.

BY SIR. DAVID MAXWELL FYFE:

Q I want to ask you some questions about the shooting of officers who escaped from Sagan Camp. As I understand your evidence, very shortly after the escape, you had this interview with Hitler at which certainly Himmler was present. That is right, isn't it?

A The day after the escape, this conference took place with the Fuehrer and with Himmler.

Q Yes. Now, you say that at that conference Hitler said that the prisoners were not to be returned to the Wehrmacht but to remain with the police. They were really your words. That is right isn't it?

A Yes.

Q That is what you said. So that is what you say took place. In your own mind, you were satisfied when you left that conference, that these officers were going to be shot, were you not?

A No, that was not correct.

Q Now, will you agree with this? You were satisfied that there was a grave probability that these officers would be shot?

A I had some feeling of some concern along those lines but this was not discussed at the conference.

Q Then you sent for General von Graevenitz and General Westhoff, did you not?

A Yes, that is correct.

q I don't know if you can remember, because General Westhoff was a comparatively junior officer compared with yourself, but he said that it was the first occasion on which you had sent for him. Does your memory

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bear that out?

A No, I did not call him. He had been brought along so that I could meet him because I had never met him before. I had only summoned General Graevenitz.

Q You had never met him before? Do you agree that you had never met General Graevenitz before since he had come into that job?

A I believe no, that I had never seen him before.

Q That is what he said. Now you agree, as I understand your evidence, that you were very excited and nervous?

A Yes, I uttered my excitement in the most abrupt manner.

Q So that you agree with General Westhoff that you said something to this effect, "Gentlemen, this is a bad business" or "This is a very serious matter" or something of that kind?

A Yes, I said that was an unusually serious matter.

Q Now, General Westhoff said, in the next sentence, what you said was "This morning Goering reproached me in the presence of Himmler for having let some more prisoners of war escape. It was unheard of."

A That must be a mistake of Westhoff's part. A day later, we were at Berchtesgaden and General von Graevenitz and Westhoff called on me the next day, the next morning, and it must be a mistake; also that I mentioned the name of the Reichsmarshal G oering in this connection. That must also be a mistake.

Q So you weren't very sure about that, were you, as to whether or not G oering was present. You weren't very sure, were you?

A Yes, I only became uncertain when in a preliminary interrogation I was told that witnesses had stated that Goering was present; thereupon I said it is not completely impossible but I do not exactly recall it.

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Q Well, that is quite right. When you were interrogated an American officer put to you exactly the sentence that I put to you now. He put that sentence to you, from General Westhoff's statement. Do you remember that he read what I have read to you now? "Gentlemen. this is a bad business; this morning Goering reproached me in the presence of Himmler for having let some more prisoners of war escapt. It was unheard of." Do you remember the interrogator put that to you, didn't he?

A. It was something like that but I believe I said that I was not certain that Goering was present at all.

Q. I was going to put exactly what you said -- and you listen carefully, and if you have any disagreement, tell the Tribunal. You said, "I request that you interrogate Jodl about the whole incident and the attitude which I displayed during the whole conference in the presence of Goering, of whose presence during that conference I am not absolutely certain, but Himmler was there." That was your view when you were interrogated on the 10th of November, wasn't it? You said" .... during the whole conference in the presence of Goering, of whose presence I am not absolutely certain...." That was your view on the 10th of November?

A. No, that must have been misinterpreted through the record, which I never read. I expressed my uncertainty about the presence of Goering and in the same connection put the question and the request to interrogate Colonel General Jodl in this connection also, since I was --

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Q. You agree that you did ask that General Jodl should be interrogated?

A. I made that proposal, yes.

Q. Well now, what do you complain about as to the next sentence?

"During the whole conference in the presence of Goering, of whose presence during that conference I am not absolutely certain --"

Wasn't that your view?

A. Yes, I was rather surprised at this interrogation at this question and when I was told that witnesses had confirmed that Goering had been present I was a little uncertain this matter and asked that General Jodl be interrogate on that matter. In the meantime I have become entirely clear and I am certain that Goering was not present and that I was absolutely correct in my original statement.

Q. Had you discusses it with Goering while you were both awaiting trial?

A. After my interrogations I had the occasion to speak with the Reichmarshal and he told me and I remember.

Q. Yes, as you say, the Reichmarshal said to you he had not been present at the interview. That is right, is it not?

A. General Jodl also confirmed that, that is, that the Reichmarshal was not present.

Q. Well now, did you tell General von Graievenitz and General Westhoff that Himmler had interfered and that he had complained that he would have to provide another sixty to seventy thousand men for the Ladnwache? Did you tell them that?

A. No, that is also a misunderstanding, I did not say that.

Q. You said that Himmler had interfered.

A. I said only that Himmler had reported the fact of the escape and I intended not to report that day since a number of escapees had been returned to the camp. I was not going to make a report to the Fuehrer on that day.

Q. Now, whatever you said to General von Graevenitz, you agree that General von Graevenitz protested and said:

"Escape is not a dishonorable offense, that is especially laid down in the Convention."

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Did he not say that?

A. It was clear to me and I believe he did say that but I might add that the statement of General Westhoff is a matter of memory which goes back over several years.

Q. Yes, but you agree, as I understand your evidence, that General von Graevenitz did make a protest about the action that was taken, is not that so?

A. I believe yes.

Q. And then when he made the protest did you say words to this effect -- I am reading of course from General Westhoff's statement:

"I do not care a damn. We discussed it in the Fuehrer's presence and it cannot be altered."

Did you say words to that effect?

A. No, it was not like that but I do believe I said similar things.

Q. Similar?

A. But we are not concerned with --

Q. Similar, to that effect?

A. I am sure I said something similar.

Q. And after that did you say that your organization, the Kriegs-gefangenenwesen, were to publish a notice in the prison camps where prisoners of war were being held, telling all prisoners of war what action had been taken in this case in order that it would be a deterrect to other escapees?

Did you instruct these generals, you heads of the prisoner of war organization, to publish a notice in the camps saying what action had been taken in order to act as a deterrent?

A. From the report by the British Government I thought about this and I am of the opinion that there must be some confusion as to time. At this conference I am quite sure I did not say this, I said that later, several days later.

Q. Well, you will find it is stated in the statment of General Westhoff that we put in, at the bottom of page 3. General Westhoff says:

"The Field Marshal gave us detailed instructions to publish a list at the camps, giving the names of those shot as a warning. That was done. That was a direct order that we could not disobey".

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And in the statement which your counsel has put in General Westhoff says:

"This must stop. We cannot allow this to happen again. The officers who have escaped will be shot. I must inform you that most of them are already dead and you will publish a notice in the prison camps where prisoners of war are held telling all prisoners of war what action has been taken in this

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case in order that it will be a deterrent to other escapes."

A May I make a statement to this?

DR. NELTE. (Counsel for Defendant Keitel): Mr. President, the British Prosecutor is referring to a document which I submitted in my document book, I assume that is correct, and a document which the French Prosecution wanted to submit and which I objected to, since it is a compilation of interrogations which Colonel Williams compiled.

I am using this document so that when we interrogate General Westhoff we can prove that this document does not agree with the testimony given by General Westhoff in twenty-three points. He has given me the necessary material and testimony. I can only bring him into the witness box tomorrow and I therefore ask, if the British Prosecutor is referring to the witness Westhoff, at least that statement of Westhoff be produced which at the request of the American Prosecution was attested to by him under oath by Colonel Williams. This affidavit up to how has not been produced whereas all other pieces of evidence from him only contain reports which have never been submitted to Westhoff for his signature or for his acknowledgement or have they been confirmed by his oath.

SIR DAVID MAXWELL-FYFFE: My point was to make it quite clear that I was not putting anything in from the first statement which was not contained in the defendant's document book. I thought that the complaint would be the other way, that if I took our own evidence alone that then it would be said that it is slightly different, for the difference is immaterial from the documents submitted in the defendant's document book. I have carefully collated them both. There is practically no difference between them but I thought it was only fair to put both sets of words.

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THE PRESIDENT: The Tribunal thinks the cross-examination is perfectly proper. Of course if Dr. Welte does call General Westhoff as a witness, he will be able to get from him any corrections which General Westhoff thinks are necessary which he makes to the affidavit.

SIR DAVID MAXWELL-FYFFE: Yes, My Lord.

BY SIR DAVID MAXWELL-FYFFE:

Q Now, what I want to know is: Did you give orders to General von Graevenitz and General Westhoff that were to be published in the camps as what measures had been taken with regard to these officers?

A Yes, but several days later; not on the same day as these officers were present.

Q How long later?

A I believe three or four days later, but I cannot tell you exactly, in any event, when I found out that shootings had taken place.

Q Well, three or four days later would be just when the shootings were beginning, but what was published? What did you say was to be published as to the measures that had been taken?

A In the camp there was to be a warning published. In my opinion, we were not to talk about shootings but a warning that those who were caught in flight would not be returned to the camp, but I do not remember the exact wording. It was traceable back to an order which I had received from the Fuehrer regarding the matter of shootings.

Q Well, is this a fair way to put your recollection of the order, that it was probable, according to your recollection, that those who attempted to escape would be handed over to the SD and, certainly, that very severe measures would be taken? Is that a fair way of putting your recollection of the order?

A My recollection is that a warning, that is a threat, was to be published to the effect that those who attempted to escape would not be returned to the camp, and that was the contents of this publication, according to my recollection which I transmitted later, but the verbatim I did not determine; the Luftwaffe was to be notified.

Q Now, General Westhoff was not content with an oral order and came back to you with a draft order in writing, did he not?

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A I do not believe that he came to me. I believe he sent me this.

Q I'm sorry, but when I said "came back to you", I was talking generally; you're quite right that he passed on for your consideration a draft order in writing for you to approve; that's right, isn't it?

A I do not believe that it was an order; as far as I remember it all, it was just a note, but it was not an order. However, I must add that in the course of the interrogation by Colonel Williams, I was reminded of this matter.

Q Well, what General Westhoff says is:

"Contrary to Fieldmarshal Keitel's order, I pretended that I hadn't understood properly. I worked the thing out on paper. I said to Oberstleutnant Kraft, 'I want to have the word "shoot" included so that Keitel can see it in writing. He may adopt a different attitude then'"

Now, this is a bit later:

"When I got the thing back, he had written the following in the margin; 'I didn't definately say "shoot"; I said "hand them over to the police and hand them over to the Gestapo."

Then adds General Westhoff:

"So that was a partial climb down,"

Now, did you put a note on it:

"I didn't definately say 'shoot'; I said 'hand them over to the police and hand them over to the Gestapo'"; did you?

A I cannot give you the exact wording of the note, and neither can General Westhoff. I did make a notation in the margin in that sense.

Q You see the point that I'm putting to you, defendant? I want you th have it perfectly clear. Rightly or wrongly, General Westhoff believed that you had inserted the word "shoot" and General Westhoff, to protect himself, put it back to you, and then you say, "Ididn't definately say 'shoot'"; I said 'Hand them over to the SD or the Gestapo."

A No, I did not say that, but Colonel Williams said that I had written "shoot"; I did not say that. That was what Colonel Williams told me, and that is a matter of official record of my interrogation.

Q Well, now, what I want to know, and it's perfectly clear, is, do you deny that that in substance represents what you put in the document: "I didn't

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definately say 'shoot'; I said, 'Hand them over to the police or hand them over to the Gestapo'"? Did you put words to that effect on the document?

A It is probable that I said something similar to that and put it down for I wanted to make it clear what I had said to these two officers. It was nothing new, but it was a clarification of what I had said.

Q Now, the next point that I want to direct your attention to:

Had you an officer on your staff called Oberst von Reuermund, on your PW staff, Kriegsgefangenen Wesen?

A No, he was never connected with that organization.

Q What was his position in the OKW?

A I believe there was a Colonel Raymond. He was chief of the department, but he was not concerned with the prisoner of war system; he was the department chief in the general Wehrmacht Amt.

Q In your office?

A In the office of the Allgemeines Wehrmacht Amt under General Reinecke, yes.

Q Do you know that on the 27th of March, that is on a Monday, there was a meeting which Colonel von Reuermund took the chair, attended by Gruppenfuehrer Mueller from the Gestapo, Gruppenfuehrer Nebe, and Colonel Hilde from the Air Ministry, from their PW inspector of 17; do you know that?

A No, I never heard anything about this matter. It is entirely unknown to me and has remained unknown to me.

Q Are you telling the Tribunal that you had this Colonel in your office, a colonel from the Air Ministry, two extremely important officials from the police, and they have a meeting to discuss this matter two days after you had your first meeting, one day after you had seen von Graevenitz and Westhoff, and you didn't know a word about it?

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A No, I did not know a thing about it.

Q Now, most of us are very familiar with the working of service departments. I do ask you in fairness to yourself to consider this. Are you telling this Tribunal that no report was ever made to you of that joint meeting between the representative of the OKW, high police officials and the Air Ministry, and it never came up to you? Now, really think before you answer.

A I cannot remember it at all, no matter how hard I try. I was surprised when I was confronted with the details of this conference, but I do not recall it.

Q Do you know that--I put it in Colonel Felder's statement when I was cross-examing the defendant Goering--he said that at that conference it was announced that these officers were to be shot and that many of them had been shot? Did no report come to you that these officers were being shot and were to be shot?

A No, not on the 27th. We've talked about it previously, when I received the first report. At that time I knew nothing about it, on that day, or even a day subsequent, regarding this conference.

Q You agreed, though, that you got to learn, as I understand you, that they were being shot on the 29th; that would be a Thursday?

A I do not recall the exact day, but I do remember, I believe it was even later than that. I believe it was several days later.

Q Well, let us, defendant, make every point in your favor. Let's take it that it was, say the 31st, or even Monday, the 2nd of April. By Monday, the 2nd of April, that's nine days after the escape, you know then that these officers were being shot?

A In those days, perhaps around the 31st, I received wrd of this on the occasion when I again came to the Berghof for a situation briefing, and I learned it through the adjutant of the Fuehrer, but at that time I was not told that all of these officers had been shot; but I was told that some of them had been shot in flight, and that was told to me before the beginning of the situation brief.

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Q They weren't all shot until the 13th of April, which was nearly another fortnight. Were you told of the matter, in which they got out of the cars to relieve themselves and then shot in the back of the head by someone with a revolver? Were you told of that?

A No, I found out only through the adjutants that a report had been given to the Fuehrer that shootings had taken place in the escape.

Q Now, I want you to come to one other point, later on: you remember that my colleague, Mr. Eden, on behalf of the British Government, made a statement in the House of Commons later on, toward the end of June. Remember that?

A Yes, I do recall that.

Q And is it correct, as General Westhof said that you had told your officers not to make contact with the Foreign Office or the Gestapo, to leave the matter alone and not try and find out anything about it, is that right?

A I told them that, as far as the hue and cry was concerned, the Wehrmacht was not involved in any of those means, that the officers of the prisoner-of-war system could not give any information, since they had not been participating and did not know what had gone before.

Q Then the answer is, yes, that you did tell your office to leave the matter alone and not to get in touch with the Foreign Office or the police?

A No, that is not correct; that is not correct that way. The chief of the Amt Ausland was connected with the Foreign Office and I was concerned only and said that the officers should not give any information about this case and about matters concerned with it, since they were not participating and had only hearsay and rumors to go on.

Q I should have thought that my previous question--you just repeated the effect of my previous question; I won't argue with you. I will come to the next point. You had an officer on your staff named Admiral Buerckner, didn't you?

A Yes, he was chief of the department Ausland.

Q He was liaison between your office and the Foreign Office?

A Yes.

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Q Now, did you give him orders to prepare an answer to England, an answer to Mr. Eden's statement?

A That I consider entirely possible, that I told him something to that effect, even though he was not to have any evidence or documents at his disposal; that is, he could not have that material from the Wehrmacht.

Q I don't want to read it again; I read the reply a day or two ago. But eventually the reply was drawn up, I think by the Foreign Office in conjunction with Oberstleutnant Kraft of your office, wasn't it?

A No, at that time I gave instructions that the answer---

Q Don't you remember Kraft--

A -- was to be dealt with in connection with the RSHA but not with the prisoner-of-war system. I did not give any instructions to the Oberstleutnant concerned.

Q But didn't he go to Berchtesgaden to assist the representative of the Foreign Office and Hitler in drawing up a reply?

A That I do not know, and I do not recall--I did not speak with him and did not see him.

Q You know that when they saw the reply, according to General Westhof, all your officers touched their heads and said, "Mad". You have seen that statement, haven't you, "When we read this not to England in the newspaper we were all absolutely taken aback; we all clutched our heads-- 'Mad'-- we could do nothing about the affair." All your officers and you yourself know the reply was an utter and confounded lie; wasn't it a complete and utter lie? You all knew it.

A I too learned of the reply and was definite that this reply was not based on the truth.

Q So that it comes to this, Defendant, doesn't it: That you will go as far as this: You were present at the meeting with Hitler and Himmler. That is what you say. At that meeting Hitler said that the prisoners who were caught by the police were to remain in the hands of the police. You had a strong probability that these prisoners would be shot and with that you used this incident as a deterrent to try and prevent other prisoners of war escaping. All that you admit, as I understand your answers this morning don't you?

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Q Yes, I do admit, but I have not been interrogated on this matter as to just what my position was, as far as Hitler was concerned, and I have not testified as to that, and that I did not give this warning, but that this warning was on the instruction of Hitler and that was the cause for new conflict between Hitler and me; that is when the first report of shootings reached me.

Q I won't go through the details again. One other point: When did you learn of the use of cremation and the sending of cremation urns to this camp?

A That I never received word of, and I do not recall ever having heard of it. The matter was later on purely a matter of the Luftwaffe, in which I was called in, through my presence, later; but I do not know whether I heard or saw anything about this at all.

Q But you will agree with me, Defendant, that anyone in the world who has had to deal with prisoner-of-war problems would be horrified at the thought of bodies of shot officers being cremated; it is simply asking for trouble, isn't it, from the Protecting Powers and everyone else, to put it at its lowest? You will agree with that; I am sure you have had a good deal more to do with prisoners of war than I. Don't you agree it would horrify anyone who has to deal with prisoners of war that bodies should be cremated, that the Protectin Power at once would be put on suspicion?

A I am entirely of the same opinion, that it is horrible.

Q And if any service finds that its camps are receiving fifty urns of ashes of cremated bodies of escaped prisoners of war, that would be a most serious matter which would be taken to the highest ranks of any service, isn't that so?

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A Yes, even though I had no connection with the prisoner of war camps o the Lutwaffe. Purely the inspectional powers.

Q I won't ask you further about the Luftwaffe. Now I think we can deal quite shortly with the question of the lynching of Allied airmen (handing a sheaf of documents to witness, and also to the Tribunal).

Now, Defendant, I would like to remind you that there was a report of a co ference on the 6th of June -- Document 735 PS -- which has been put in against the Defendant Ribbentrop; it is a report of General Warlimont, GB-151, with regard to the criteria to be adopted for deciding what were terror fliers. You must remember the document, because you yourself dealt on February with the not

A Yes.

Q -- against legal procedure, which you already dealt with.

A Yes.

Q Now, you said during your evidence -- you remember you told us why you didn't want legal procedure, because it was a difficult problem for courts martial to decide and also it meant a three months delay in reporting the death sentence to the Protecting Powers.

A Yes, I did make those statements.

Q And then you said that you had a discussion with Goering, who said that lynching should be turned down. Do you remember saying that on Friday?

A Yes.

Q Now, that wasn't accurate, was it ? Because I want to just show you what did happen. That document which you annoted was the 6th of June. And on the 14th of June --

A Yes.

Q -- it is Document D-774, which will be GB-307, initialed Warlimont. Your office sent a draft letter to the Foreign Office for the attention of Ritter sending on this formulation of what were terror fliers. And if you look it over that says that it is necessary to formulate unambigously the concept of the facts which are to constitute a criminal act. And then the draft letter D-775, GB-308 - to the Commander-in-Chief of the Air Force, for the attention of Colonel von Brauchitsch, which says that "on the basis of the preliminary talks and in agreement with the Reich Foreign Secretary and the head of the Security Police and SD, the

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Defendant Kaltenbrunner, the following facts are to be considered terroristic acts, which are to be taken into consideration when publishing a lynch law, or justify the handing of airmen from the Air Force reception camp of Oberursel to the SD for special treatment."

And then you set out what was agreed and you say, "Please obtain the consent of the Reich Matshal to this formulation of the fact and if necessary give the command of the Air Force reception camp of Oberursel verbal instructions to act accordingly. It is further requested that you obtain the Reich Marshal's consent also to the procedure intended for the handling of public announcements." And then if you look at D-776, GB-309, that is a letter from you to the Foreign Office -- a draft letter -- for the attention of Ritter, dated the 15th of June, to the same effect. You ask him to confirm by the 18th. And then D-777, GB-310, is a similar draft letter to Goering, marked for the attention of Colonel von Brauchitsch and asking him to reply by the 18th. Then D-778, GB-311, records a telephone call from Ritter saying that the Foreign Office will have to delay a couple of days in giving their view. D-779, GB-321 gives the first note from the Defendant Goering.

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It says, 19 June, "The Reich Marshal has made the following note with regard to the above letter: The population's reaxtion is, in any case, not in our hands, but, if possible, the population must be prevented from acting against other enemy fliers." I asktyou to note the word "others" -- that is, enemy fliers that do not come within the category of enemy terror fliers. "to other enemy fliers to whom the above state of affairs does not apply. In my opinion, a state of affairs as above can also," and I ask you to note the word "also", "at any time be tried by a court, as it is here a question of murders which the enemy has forbidden his fliers to commit."

Then, in D/780, GB 313, there is another copy of the memorandum from the Foreign Office which I read in some detail when I was presenting the case again against the defendant Ribbentrop, and it is interspersed with comments of your Officer General Warlimont, in general agreement with the memorandum. I do not want to go through that again.

Then, in D/781, GB 314, your office wanted to get quite clear what the defendant Goering meant, so you write to him again for the attention of von Brauchitsch:

"It is unfortunately not possible to gather from your letter whether the Reich Marshal has agreed to the facts communicted to him which are to be regarded as terroristic actions in the publication of a case of lynch law, and he has prepared to give the Commandant of the Air Force Reception Camp of Oberursel the verbal instructions to this effect. It is again requested that the Reich Marshal be induced to give his consent and that this office be notified if possible, by the 27 inst."

Then, just passing along, D/872, GB 315, it says that the Foreign Minister will reply in a day or two, and in D/783 of the 26th -- that will be GB 316 -- comes the answer, a telephone memorandum, a telephone call, Adjutant's Office of the Reich Marshal, Captain Bucuer:

"The Reich Marshal agrees with the formulation of the concept of terror fliers as stated and with the proposed procedure. He asks for information this very day about measures taken."

So it is not right, is it defendant, that defendant Goering disagreed with the procedure? Here is a call from his adjutant's office -- and it is noted

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by your office -- saying that he agrees with the formulation of the concept and with the proposed procedure. This must be right, must it not?

A Yes, I had never seen this document, but I understand under these measures that these men were to be taken to Oberursel Camp, not lynching, and perhaps I may say something about that?

Q It is quite clear. I am not going through the correspondence again. I pointed it out as we went along. Your letters are saying both lynching and the measures to be taken for the publication of lynching and the other procedure of segregating these people in the hands of the SD pending confirmation of suspicion of terror fliers. It is quite clear. I have taken you through nearly ten letters in which it is stated implicitly that it is put to the Reich Marsha on both these points, publication of lynching and segregation from other prisoners of war. He is saying, I agree with the proposed procedure.

A May I add something?

Q Yes, do.

A I recall my discussion with Goering on the Berghof. We expected Hitler to give a speech to the generals, and this must have been at the same time and in this discussion two points were mentioned. Point one was that my influence with Hitler had not been strong enough to set aside this matter or to do away with it, and I talked with Goering that day about these two points. We established that the entire method which was mentioned here was to be a condition for an announcement of lynch law. We agreed that as soldiers we rejected that, and I asked him most urgently to use his influence with Hitler again so that these things would be stopped.

This discussion did take place on the Berghof in an ante-room before the actual speech by Hitler took place, and I remember this very distinctly. The correspondence which took place I just looked over now. I know some of the fragments only. These matters were discussed in writting this way and that, pro and con, regarding some measures which had been discussed by Hitler, but, thank goodness, these measures never did come through, and orders were not issued to that effect.

Q Would you look at the next document, D/784, GB 317. That is a note from General Warlimont to you. Paragraph (1) says that the Foreign Office have

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agreed, Ambassador Ritter telephoned on the 29th that the Reich Foreign Minister has agreed to this draft. Paragraph (2) says:

"The Reich Marshal is in agreement with the formulation of the cooncept "terror flier" as proposed by the OKW and with the method suggested."

That is sent to you, and on it there is a pencilled note, initialed by Warlimont:

"We must act at last. What else is necessary for this?" Didn't you act on i

A No.

Q Then, why --

A As a matter of fact --

Q Then whay, if you did not act on it, were you asking the Luftwaffe four days later if they had given instructions to the Camp at Oberursel? Look at D/785, GB 318.

THE PRESIDENT: Sir David, it appears to be initialed by the defendant -- D/784.

SIR DAVID MAXWELL-FYFE: My copy is initialed "W", Warlimont.

THE PRESIDENT: D/784 on the copy I have is initialed "K" at the top, along side Warlimont's note.

SIR DAVID MAXWELL-FYFE: Oh, yes. I am sorry, My Lord. The fault is entirely mine. My Lord is quite right.

Q So, before I pass from D/784 that was submitted to you and initialed by you?

A No, as far as this document D/784 is concerned, I only put my "K" on it to show that I saw the document, but I did not put any note on it.

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Q. But the document was submitted to you, and so you did see that document? You knew that both the Foreich Office and Goering were agreeing to this procedure being adopted?

A. Yes, I did read the document. I have seen the document.

Q. And four days later, in D-785, your department is asking Goering through von Brauchitsch as to whether they have been carried out:

"Please report whether instructions have been given to the Commandant of the Air Force reception camp of Oberursel in the sense of the statements of the Supreme Command of the Armed Forces/Operational Staff of the Armed Forces of the 15th June, or when it is intended to do so."

A. I have not seen this document before, but it seems to me that I asked the Reich Marshal about the taking back of these people to Oberursel, not whether he wanted lynch law, whether he approved it or whether he considered it just or right, and that, I think, would answer the question. The question itself I do not know.

Q. Please look at 786, GB 319. You were going beyond that the next day. This is the fifth of July. It is actually a report of the meeting on 5 July. It says that Hitler decreed the following:

"According to press reports, the Anglo-Americans intend in future to attack from the air small places, too, which are of no importance to war economy or militarily, as a retaliatory measure against the 'V-1's'. Should this news prove true, the Fuehrer wishes it to be made know through the radio and the press that any enemy airman who takes part in such an attack and is shot down will not be entitled to be treated as a prisoner of war, but, as soon as he falls into German hands will be killed and treated as a murderer. This measure is to apply to all attacks on small places which are not military targets, communications centres armament targets, etc., and which are not of importance to the war.

"At the moment nothing is to be ordered; the only thing to be done is to discuss such a measure with the WR and the Foreign Office."

So that, far from modifying the matter, you were increasing the severity of the measures to be taken.

H0104-0022

A. I do not remember this matter, but if that note was made at that time, something like that must have been mentioned by him in this situation, but I do not remember the incident.

Q. I only want to put this point to you. You have said twice -- on Friday and again to-day -- that no order of the Wehrmacht had been issued. It would not need an order of the Wehrmacht to encourage the population to lynch fliers who had crashed. All that would be required to produce that result would be to hold off the police from arresting people who murdered them, would it not? You would not need an order of the Wehrmacht to encourage your population to murder fliers who had crashed, would you?

A. No, we were only concerned with the question of the Wehrmacht, which alone was justified in taking a shot-down airman into custody, should take them away from lynching and prevent that lynching or anything similar should take place.

Q. You will agree with me that once an American or British airman was handed over to the SD, his chance of survival would not be, what, one in a million? He would be killed, would he not?

A. I did not know that. I just learned about that here. I did not know that at the time.

Q. You will agree that that was in fact what happened; when an airman was handed over to the SD, he would be killed, would he not? That is what would happen?

A. I do not believe that was so, but here ---

Q. I am not saying what you believe. Now we know what would happen?

A. No.

Q. You have told us several times that you did not know anything about the SD. In fact, at one time, you were a sort of a court of appeals from the SD in France, were you not? You confirmed the killings by the SD in France, did you not?

A. I do not recall that I did any ---

Q. French Exhibit 1244. I am afraid that I do not have a German copy, but this is what it says:

H0104-0023

"In the criminal proceedings against the French citizens:

"(1) Jean Marechal, born on the 15th October 1912

"(2) Emmanuel Thepault, born on the 4th June 1916

"Fieldmarshal Keitel, acting within the powers given to him on the 26th and 27th June, 1942, by the Fuehrer in his office as Commander-in-Chief of the land armies has refused to pardon these two men condemned to death and has ordered that the sentences should only be executed within the scope of the general punishments."

They were condemned by the Tribunal de la Folkcommandantur at Evroux, and this was sent to the Commandant de la Police de Surete et du S.D., sent to the Commandant of the Police of the Surete and of the SD. Does that not show that you were dealing with a confirmation of sentences of death and passing on your confirmation to the SD?

H0104-0024

A This entire incident is an enigma to me. In several cases it was such that there were judgments or convictions given or confirmed by the Fuehrer, which had to be submitted to him for confirmation. Perhaps I submitted these to him, and perhaps signed as a Deputy for the Fuehrer in this case. However, I do not know anything else about this matter.

Q Well, it doesn't look like that. Let me remind you of the words: Mareshal Keitel, dans le cadre des pouvoirs qui lui ont ete donnees les 26 et 27 Juin 1942" That date. It is acting within the powers given to you by the Fuehrer. Had you not been given the powers?

A No, I did not have any such powers in that case. That is a mistake. However, I may have signed as the Supreme Commander of the Wehrmacht, and I would put that down, "acting as a deputy, Field Marshal Keitel."

THE PRESIDENT: Are you passing from that?

SIR DAVID MAXWELL-FYFFE: Yes, I was going to pass on.

THE PRESIDENT: Well, isn't D-775 relevant to that? the last line of the first paragraph.

SIR DAVID MAXWELL-FYFFE: My Lord, I am very gratefull to you.

THE PRESIDENT: D-775. As I understand it, the defendant was saying that he didn't know what would necessarily happen to these prisoners if they were handed over to the SD. Those are the last words of the first paragraph.

SIR DAVID MAXWELL-FYFFE: Very good, My Lord.

BY SIR DAVID MAXWELL-FYFFE:

Q The words are: "the handing over of enemy prisoners of war airmen from the Air Force Reception Camp at Oberursel to the SD for special treatment."

We now know, defendant, that "special treatment" means death, Didn't you know, in 1944, what "special treatment" meant?

A Yes, it was generally known what "special treatment" was.

Q Now, there is just one other point in the document which my friend General Rudenko put to you on Saturday, I think it was, or Friday evening, EC-338. You remember General Rudenko put this. This document is the report of Admiral Canaris about the treatment of prisoners of war, dealing with the position of the Soviet Union as not being signatary to the Convention. You remember the point that Admiral Canaris put to you, that although they weren't signatories, since

H0104-0025

the 18th century there had been established a practice that war c ptivity was neither revenge nor punishment, but solely protective custody. Do you remember the document? It was a report from Canaris to you as of the 15th of September. 1941, putting out the position of prisoners of a country that had not signed the Convention. You remember, you said you agreed with it, but that you had to put on this statement that it was nonsense from the point of view of the present situation because it arose from a military concept of chivalrous warfare, that this was the destruction of an ideology. You said that you had to put that on, on Hitler's instructions. Do you remember?

A I had told him about the procedure and about the matter; I asked that he read this, and then put on this note.

Q Yes. Now, there is a paragraph 3-a, which I want you to have in mind at the moment, on the point I am dealing with now:

"The screening of the civilian and politically undesirable prisoners of war, as well as the decision over their fate, is effected by the action detachments of the Security Police,Sicherheits Polizei " That is underlined in purple --that is, it is your underlining--and opposite it is your pencilled note, "very efficient." That is, "action detachments of the Security Police, very efficient." Then it goes on, "...and the SD." Then Admiral Canaris says, "...along principles which are unknown to the Wehrmacht authorities", and you have put opposite " unknown to the Wehrmacht authorities". "not at all". Do you remember doing that?

H0104-0026

A No. At this moment, I am sorry, I do not recall. I must have meant this remark to refer to the fact that this was unknown to the Wehrmacht, and I believe I recall it that way.

Q You see, it is perfectly clear. Admiral Canaris says it is unknown to the Wehrmacht authorities, and you put opposite to that, in your penciled notation, "not at all". You couldn't have gotten that from Hitler; that must have been your own point, was it not, if you put in, in pencil, "not at all"? You must have known they were known to the Wehrmacht.

A Not at all. I cannot clarify this statement. I put these remarks down rather hurriedly, and I cannot identify them at present. They are very hard to decipher or to recognize. I cannot give any clear information or explanation, because I do not know. However, as I recall, I wanted to make, or did make, a note to the effect that the Wehrmacht knew nothing about it, and that is correct.

Q Now, I just want to take you quite shortly on the last of my points, and then ask you one question about it. You have said to the Tribunal, I should think probably at least twenty-five times, that you were not interested in politics, that you simply took your orders as to military preparations. I just want to ask you a little about that.

First of all, let's take the Austrian problem.. There I only want to put one document to you. You remember defendant General Jodl's account in his diary about the pretended military movements which, according to defendant Jodl -- I gather that you said that General Lahousen took a different view--had an immediate effect in Austria? Do you remember that? You must remember that.

A Yes.

Q Now you suggested, did you not, these false military movements?

A No, I did not think of them and I did not propose them. Those were instructions of the Fuehrer, when he admitted me that evening. I would not have thought of that myself.

Q You have the document books that I gave you. Just look at that. It is 113 of the German document book. It is 131 of Your Lordship's document book, the larger document book.

Now, this is your document of the 13th, defendant.

H0104-0027

A Yes, I recall.

Q And it says, if you look at paragraph 1, to take no real preparatory measures in the Army or Luftwaffe, no troop movements or redeployments, to spread false but quite credible news which may lead to the conclusion of military preparations against Austria. And it is through people in Austria and your customs personnel and through agents that you set out the news, and by a make-believe wireless exchange and through maneuvers.

Now, you put that up to Hitler. As of the 14th, Captain Eberhard gives the information by phone that the Fuehrer has given his approval on all points. You were putting up what the false news and the false preparations were to be in order to get a political effect in Austria, were you not?

A I made the proposal on the basis of instructions which had been given to me on my return to Berlin.

Q Well now, I only want to deal quite shortly with this, and I think I can, but I want to show the same point with regard to Czechoslovakia.

Before you became Chief of the OKW you had been under von Blomberg at the Ministry of War. Had you seen von Blomberg's plan for the invasion of Czechoslovakia, the directive dated the 24th of June 1937?

A Yes, I knew that

Q You have?

A Yes. It was not instructions for an invasion, it was preparations for an invasion, and I am familiar with those matters.

Q Well, paragraph 2 reads: "The task of the German Armed Forces is to prepare in such a way that the bulk of the whole strength can break into Czechoslovakia quickly, by suprise, with the greatest force."

I should have thought that was a preparation for an invasion. All I want at the moment is to know this. You knew of that plan, defendant, did you not?

A I believe, yes, that I read it at that time, but of course I do not remember the details at this time.

Q Now, you told this Tribunal that the first that you heard of the Fuehrer's plans against Czechoslovakia in 1938 was the interview with the Fuehrer that you had on the 21st of April 1938. It is very easy to forget something, and I am not putting it to you that you are lying, defendant, on

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this point. But that is not accurate, is it? You had correspondence with the defendant von Ribbentrop as early as the 4th of March, six weeks before, on this point, had you not, about the liaisoning with the Hungarian High Command? Isn't that correct?

A- I cannot remember that; I have no idea.

Q Just look at it. You see my point? You are stating that you were not dealing with politics, but if you will look at this document I will give you in a moment -- it is 2786-PS -- you will see that it is apparently a letter from the defendant von Ribbentrop to you:

"Most Honored General: Enlcosed I forward to you the minutes of a conference with the local Hungarian Ambassador for your confidential cognizance. As you can judge from it, M. Stojev suggested thatpossible war aims against Czechoslovakia be discussed between the German and Hungarian armies. I have many doubts about such negotiations. In case we should discuss with Hungary possible war aims against Czechoslovakia, danger exists that other parties as well would be informed about this.'

"I would greatly appreciate it if you would notify me briefly whether any commitments were made here in any respect."

And the Foreign Minister encloses the minutes of his conversation with the Ambassador.

A I remember this incident only so far as an invitation by General von Ratz was concerned. I did not know at all just what was to be discussed. Blomberg had been invited by von Ratz also, and I did not know what was concerned, it could only have been military matters or questions. The question was whether I should make a visit like that, because Hitler had told me that he had considered that appropriate. However, an operational Chief-of-Staff meeting did not take place, it was just a hunting visit.

THE PRESIDENT: The Court will recess now.

(A recess was taken).

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BY SIR DAVID MAXWELL-FYFE:

Q. I want to ask you very few questions on this part of the case, Defendant. Do you remember, you told the Tribunal that on the 21st of April, when you saw Hitler, that he had either read to you or handed you a copy of the minutes which appear there, taken by Schmundt, about the basis of the Fall Gruen operation against Czechoslovakia?

THE PRESIDENT: Sir David, isn't this really a matter of argument rather than a matter for cross examination? The witness says that in so far as the part he took in all these matters, it was military. The case of the prosecution is that the part he took was political.

SIR DAVID MAXWELL-FYFE: My Lord, if I may say so, it is a very fair comment and received with greatest respect. The difficulty is, when a witness has said several times it is only military, I wanted to bring out the points that show it is political and I don't want to cross anything which the Tribunal had in mind.

THE PRESIDENT: Well, I think the Tribunal have all the documents before them upon which they can judge, really, unless you have new documents?

SIR DAVID MAXWELL-FYFE: My Lord, there are not; and,,my Lord, I will of course, accede at once to what the Tribunal says. My lord, I should like to point out one document.

THE PRESIDENT: Sir David, I think the Tribunal does feel that the cross examination is apt to get a little bit too long and sometimes too detailed.

SIR DAVID MAXWELL-FYFE: If your Lordship please, I am sorry if that has been done, but, my Lord, the witness was in examination in chief, I think, two full days and in examiniation by the other defense counsel for half a day, and so far the prosecution have only spent just four hours. So I hope you Lordship won't hold it too much against us. My Lord, the only document which I should like to -- I shall not pursue the point in view of what your Lordship has said -- it is page 31 of the document book. I only wanted you to have this in mind, because your Lordship will remember that the witness said that the state of German preparations was such that he, himself, and the other generals, did not think that a campaign against Czechoslovakie will succeed.

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Your Lordship will see that on that day, General Malder, then Chief of Staff, said that the operation will definitely succeed and almost will be reached in the second day. My Lord, I only want to pass on that and I think it is only fair that the Tribunal should have that point in mind. I don't think it has been referred to before. I will leave that point, as your Lordship has indicated, and I will leave the other point on this part of the case, which I intended to do. I only want to deal with a different point entirely and then I shall finish.

BY SIR DAVID MAXWELL-FYFE:

Q. Defendant, the document which I have now passed to you is a document which gives the account of a conference between Hitler and yourself on the 20th of October 1939, with regard to the future shape of Polish relations and I want you to look at paragraph 3, the second sub-paragraphs. I want to put one interview to you that arose out of that. That paragraph says: "The Polish intelligentsia must be prevented from forming a ruling class. The standard of living in the country is to remain low. We only want to draw labor forces from there." Now, do you remember General Lahousen giving evidence? He said that Admiral Canaris had protested vehemently to you against, first of all, the projected shooting and extermination measures that were being directed particularly against the Polish intelligentsia, nobility and clergy, as well as elements that could be regarded as embodiments of the national resistance movement. According to General Lahousen, Canaris said: "The world will at some time make the armed forces, under whose eyes these events have occurred, also responsible for these events." Do you remember Admiral Canaris saying that to you or words to that effect?

A. I only know what General Lahousen testified here in court. I don't know anything about that.

Q. Did Lahousen ever give you any warning of any kind as to the fact that the armed forces might be held responsible for these actions that were being taken in Poland?

A. No. It was my opinion, though, that the armed forces would be made responsible, and my objections were taken without their being agreeable to them

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or without passing their opinion upon them. That was the reason for the conference.

Q. And that was a point that did worry you very much; didn't it?

A. Yes, I was extremely worried and I had serious discussions about it, though not at that particular time.

Q. And wouldn't it be fair to put it this way, that if you had known at the time all that you know now, you would have refused, even with all that you have told us, you would have refused to have anything to do with actions that produced concentration camps, mass murder, and misery to millions of people, or do you say that you still, knowing all that you know now, would have gone on with these actions?

A. No. I am convinced that if the German armed forces and their Generals had know it then they would have fought against these things.

SIR DAVID MAXWELL-FYFE: Thank you.

MR. DODD: If your Honors please, I have just one question.

BY MR. DODD:

Q. A few days ago, on the morning of the 3rd of April, when you were on direct examination, we understood you to say that you had the feeling that you must accept responsibility for orders issued in your name, orders which you passed on, which were issued by Hitler, and on Friday afternoon, when Sir David was examining you, we understood you to say that as an old professional soldier you, of course, understood the traditions and indeed the principles of that profession of obliging a soldier to not carry out any order which he recognizes to be criminal in character. Is that understanding on our part correct?

A. Yes, I understood.

Q. So that is it fair to say to you that under the obligations of your oath as a professional soldier, you did acknowledge carrying out criminal orders?

A. In that way you can hardly say that. What should be said is that the leaders of the state and the authority they held at the time, represented the legislative authority which meant that the executive officers were not under

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the impression that they were carrying out illegal orders, if they came from the person who was by law entitled to give these orders. Knowledge that acts were committed which were not strictly legal did, of course, exist as far as I am concerned.

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Q I understand you to say you did with knowledge carry out and pass on criminal or illegal orders. Is that a fair statement?

A In that case may I repeat that my inner conviction was not necessarily that I was being criminal, since after all it had been the head of the state, who as far as we were concerned, was the legislative powers in the country. Consequently I was not convinced that I was acting criminally.

Q Well, I do not want to devote any more time to you except to say this, to suggest to you, that I think your answer is not responsive.

You told us that some of those orders were violations of the existing international law. An order issued in that form and on that basis is a criminal order, is an illegal order, is it not?

A Yes, that is correct.

Q Well, when you carried them out you were carrying out criminal orders in violation of one of the basic principles of your professional soldier's code no matter by whomthey were issued.

A Yes.

THE PRESIDENT: Dr. Nelte, do you sih to re-examine?

DR. NELTE: Mr. President, I do not propose to put any further questions regarding the facts to the witness. It appears to me that after his frank statements which he has made the facts objectively seen have been clarified to such an extent as can be possible during this trial.

Regarding the facts subjectively seen, it is in my conception necessary, however, and particularly with reference to the last question which has been asked by the American Prosecutor, that certain supplementary statements be obtained.

RE-DIRECT EXAMINATION

BY DR. NELTE:

Q Once more, therefore, I am having the Canaris document shown to you, USSR 356, from which General Rudenko has presented to you a handwritten document and also the documents submitted by the British Prosecutor, D-762-- I beg your pardon, 766,765, and 770. I am having them shown to you once more.

According to statements made during the cross-examination your explanation regarding responsibilities appears to require a supplementary statement. You have said that Hitler's orders and with your cognizance of their contents,

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were being passed on by you. And now I refer to Mr.Dodd's question and I ask you for your own personal judgment. I must ask you this additional question since it is of the greatest importance. How was it possible and how do you want to explain that these rigorous orders, which were violations of international law, that these orders could be carried out by you or how is it possible, as it says in the Canaris document, that you covered them? You did have objections, you told us so.

This is a matter that can only be clarified by you yourself since it is an inner event and it cannot be clarified with the help of documents, as such. Repeatedly you have told me and you emphasized it here that you had the wish to assist in clarifying the absolutely true state of affairs, Thus, I am asking you how was it possible and how do you wish to explain that these orders and instructions were made effective and passed on by you and how is it that no effective resistance was put up?

A. On the basis of that statement, this discussion, I must say that I understand that some orders or some notes or documents of this kind have been found, in other words, that they were signed by me and that they were passed on in the shape of orders and that I understand how third persons, persons who were not concerned, particularly foreigners, cannot understand it.

So as to find an explanation, I must say that you have to know the Fuehrer, that you must know in what circumstances, in what atmosphere day and night I worked in for years. You must not fail to consider just what the circumstances were under which these events occurred. I have repeatedly stated here and I had done what I have said, namely, stated my objections. I have raised them. The Fuehrer would then advance arguments which to him appeared decisive and he did it in a rather forceful way, which was peculiar to him, stating the military and political necessities and his concern for the welfare of his soldiers and their safety and his worries regarding the future of our people. I must state because of that but also because of the ever increasing emergency in which we found ourselves, I realized the necessity and the rightness of such measures and I often allowed myself to become convinced. Thus I would transmit the orders that were given, I

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promulgated them without being in any way deterred by any possible effects they might have.

You may consider this weakness and you may consider that I am guilty but at any rate, the facts as I have described them did exist. During the examination by Sir David I myself admitted that I often had serious conflicts of conscience and that I often found myself in a position where I myself had to draw the consequences of those matters. But one thing I had not thought of and that was that I should in any way act against the head of the state and the supreme commander of the armed forces or refuse to obey him. As far as I am concerned, and as a soldier, this is a conception which cannot be violated.

I may have made mistakes, I may have acted in error and perhaps I can be accused of having been weak under the Fuehrer, Adolf Hitler, but one thing you cannot accuse me of, and that is I was cowardly, that I was not honorable and that I was faithless.

That is all I have to say to your question.

DR. NELTE: Mr President, I have reached the end of my examination. I should only like to ask you, if I may, that the documents which have been offered to the Tribunal in the course of this examination, bearing the numbers one and two in document book two, named documents K-8 and K-9, be admitted in evidence without the necessity of my reading any parts thereof. The Prosecution knows the documents and they are agreeable.

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BY THE PRESIDENT:

Q Defendant, there is one question I should like to ask you. Are you suggesting that you ever put your protest or objections to the orders of Hitler in writting?

A One I handed to him in writting, yes: that I know for certain. In the other cases, and as far as I can recollect, the matters were discussed verbally.

Q Did you keep a copy of that protest?

A I have nothing left, Mr President, not a single piece of paper.

Q Did you keep a copy of the protest ? I did not ask you whether you had a copy; I asked you whether you kept a copy. Did you make a copy?

A I had a draft as well as a handwritten document, which I had given to him through the chief adjutant. I think I had the draft in my personal files, but no longer have it and I don't know where these files have gone. They could possibly be or have been in the hands of the Chief of the Central Armed Forces Department, who dealt with personal matters in my office. Later on they may have got into hands of the chief adjutant of the Fuehrer, that I don't know and I think that the original of that document ought to be available amongst those files, the document which I sent to the Fuehrer at that time.

Q And what was the occasion of the protest?

A It was made in connection with another crises in our relationship during which he had expressed his distrust, and it was made in connection with the current controversies on basic matters which existed between us.

Q When?

A I believe it was in 1940 -- 1939-1940, during the winter.

Q And you can't say more about it than that it was made on basic matters?

A It clearly contained the view that I asked to be able to resign because of the strength of the accusations made against me and on the strength of the reasons which I was quoting.

THE PRESIDENT: That is all. The defendant can return to his seat.

DR. NELTE: May I ask permission to submit the two documents to the Tribunal, the ones which I mentioned before?

THE PRESIDENT: Yes, certainly.

Are you going to call in any more witnesses?

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DR. NELTE: I had asked the Tribunal to be able to call witness Dr. Lammers.

THE PRESIDENT: Very well.

DR. NELTE: Witness Dr. Lammers please.

DR. LAMMERS, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your name in full?

A Hans Heinrich Lammers.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeat the oath.)

THE PRESIDENT: You will sit down if you wish.

DIRECT EXAMINATION

BY DR. NELTE:

Q Witness, the main subject on which I wish to question you was the conception of the OKW, its juridiction, and the position held by the defendant Fieldmarshal Keitel as Chief of the OKW. We have, during discussions which we had, talked about the matter subject of which, through previous interrogations and through statements made by the defendant Keitel appears clarified to me, but since, after statements made by Goering and the defendant and statements to be made by other witnesses it will be clarified, I do not propose to ask you in detail on the subject. But I would like you, as the chief of the Reich Chancellory, to answer questions which others may not know as well as you do, you, who had participated in some way or other when certain decrees, and particularly that of the 4th of February, 1938, were drafted. May I ask you, therefore, to tell me, first of all, how did the decree of February 4, 1938, come about?

A The Fuehrer informed me that the Minister of War von Blomberg was going to leave his position, and that on that occasion he wanted to make certain other changes of personnel in the German Government. In particular, he said that the Foreign Minister von Neurath was going to retire and that certain changes would take place in that connection, and that furthermore, in the Supreme Command of the Army, certain alterations were about to be made. Subsequently,

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he instructed me to draft a decree regarding the chiefs of the army. I was about to participate and collaborate with the Armed Forces Department of the War Ministry as a directive in this connection, and the Fuehrer gave me the following instructions.

"In the future I no longer want to have a Reich Minister for War; and in the future I no longer want a Supreme Commander of the Armed Forces who would stand between me, the Supreme Commander, and the Supreme Commanders of the Armed Forces Sections."

Consequently, the decree was drafted, in which, to start with, the Supreme Commander of the Armed Forces was created in the shape of a military staff which stood under the direct orders of the Fuehrer. The Fuehrer desired that there should be no independant authority in that place which would stand between him and the commanders of the departments of the armed forces. Consequently, Admiral Keitel, who was appointed in that connection, had no authority of command of his own regarding the sub-sections of the armed forces. Such powers could hardly be existing because --

THE PRESIDENT: Has this not been really covered by the defendant Keitel himself? No question in cross examination has been put to him to challenge any of his statements upon the organization of the OKW; therefore, it seems to the Tribunal it is not necessary at all.

DR. NELTE: Mr. President. When I spoke a few introductory words, I had asked the witness regarding the development regarding that decree. I had asked him one question and, persumbly, he had to talk a little more regarding the decree of February 4, 1938, to explain it. I shall try and make Dr. Lammers' examination as short as possible, and I do think that the questions regarding the Chief of the OKW have been clarified, but it is, after all, a principal question. If a man of the standing of Dr Lammers' can confirm it, then this would probably increse the value of the evidence.

THE PRESIDENT: If the Prosecution had put any questions in cross-examination suggesting that there was any inaccuracy in the evidence which the defendant Keitel had given upon the subject, then, of course, it would be open to you and it would be necessary for you to call other evidence upon it; but, when the subject is not challenged in any shape or form, it is not necessary to confirm it.

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DR. NELTE: In that case, Mr. President, I don't need to ask the witness any questions at all since the subject on which I was going to examine him was the position of the Defendant Keitel as Chief of the OKW; his position as a Minister; his functions as a so-called Counsel for the Reich's Defense and his functions as a member of the 3 men collegium. In all these cases, no questions have been raised by the Prosecution.

THE PRESIDENT: Dr. Nelte, the Prosecution did raise the question as to whether the Defendant Keitel took part in any political action and upon that you may questionhim.

DR. NELTE: Thank you very much.

Dr. Lammers, what can you say on the strength of your personal knowledge, about the question whether the Defendant Field Marshal Keitel did occupy himself with political matters on the strength of his position as Chief of the OKW, or if he did concern himself with them?

A As Chief of the OKW, he had, to start with, nothing to do with political matters. The way I understand your question is that you want me to say what Mr. Keitel, in his capacity of Minister of War, did do so far as he cooperated in political matters and what he carried out. I don't quite understand your question.

Q This has nothing to do with his position as the Chief of the OKW. In other words, nor has it anything to do with his functions in the Ministry of War.

What I am asking you, what I want you to testify to, is the question as to whether you know that the Defendant Keitel, during the time when he held the position of Chief of the OKW, occupied himself with political lines, say foreign political matters in the first place?

A Regarding the large scale foreign political affairs, particularly foreign political affairs, I cannot make any statement regarding Keitel since I myself didn't participate in that phase.

Q Alright, then. I want to ask you a concrete question.

H0104-0040

You know that Keitel was present during the reception -- when President Hacha came, when first there were meetings with other statesmen and you, principally, you were present also. Can you say whether during the time that he was presentduring such receptions, was it the function of Field Marshal Keitel to take part in political discussions and to co-operate?

A As far as I know, Keitel has often taken part in discussions with foreign statesmen. I myself did not take part.

You have mentioned President Hacha. That was an exception when I was there. In matters regarding the Protectorate, we were not interested in foreign political questions, as far as we are concerned, but during discussions with prominent men from abroad on foreign policy, I was practically never present and I cannot say, therefore, to what extent Keitel did participate during such c onferences, but I assume that he was frequently present during such conferences.

Q In other words, you cannot answer that question on the strength of your knowledge. In that case, I am askingyou if, in accordance with the wishes of the decree of 4238, Hitler -- in other words, with whom you have discussed its problems -- stated whether the man who was to take over the position of Chief of the OKW was to have such political functions? Can you say anything on that?

A My opinion was that he wasn't to have anything to do with political functions in that sense. He was immediately subordinate to the Fuehrer.

Q Did it ever, at any time, become known to you, or did you ever get the impression that Field Marshal Keitel was a political general, in the sense which one usually considers a General political?

A I never had that impression.

DR. NELTE: Mr. President, in that case I do not propose to examine the witness further since everything else he was going to make statements on has already been clarified.

THE PRESIDENT: Dr. Nelte, the Tribunal thinks that you may have mis understood what I said to you about whether you should ask any questions

H0104-0041

about the Defendant Keitel as a member of the Reich's Defense Council. If this witness can give any evidence upon that point, you may question him upon it.

BY DR. NELTE:

Q Witness, in the law regarding the Reich's Defense of 1938, you, as Chief of the Reichs Chancellery, were appointed a permanent member of the Council for the Reich's Defense. Do you know if this Reich's Defense Law, together with the Council for the Reich's Defense, did it ever become effective.

A The Reich's Defense Law was made but has never been promulgated as such. In my opinion, it has never therefore become a law. The contents of the Reich's Defense Law were partially and applied as secret instructions from the Fuehrer. That Reich's Defense Council, as such, as far as I know, never did sit. I, at any rate, have never received an invitation to attend a meeting, and, in my recollection, I have never taken part in any meeting for the Reich's Defense.

H0104 - 0042

Two meetings were supposed to have taken place, as I have heard it they have been called meetings of the Reich's Defense Council, but I believe that these meetings, because of the large number of people attending them -- I think there were 60 or 80 called by the Plenipotentiaries for the Four Year Plan -- I can remember having partaken in such meetings. Apart from that, after the Reich's Defense Law had been formulated, I have had so little to do with it during the subsequent years that I myself did not remember that I had been appointed a permanent member of this Reich's Defense Council. In such meetings, if they were meetings of the Reich's Defense Council, in which I had partaken, no matters directly concerned with the defense of the Reich were ever discussed.

Q Do you know anything about the tasks which the Reich's Defense Council were supposed to have?

A I know no more about its tasks than what was contained in the law which was not published. As far as I can recall, these were very general, these tasks which were to be performed referred to the Defense of the Reich.

Q It has been stated by the Prosecution here that the Council for the Reich's defense was an instrument for the planning of aggressive war. At any rate, an instrument for aggressions and for rearmament.

Is there anything you know regarding that, whether the Council for the Reich's Defense or whether members of that Council undertook such tasks?

A Not the least is known to me about that.

Q I should now like to put a few questions to you regarding the Secret Cabinet Council of which you were supposed to be a member. Defendent Keitel was also a member of the Secret Cabinet Council, and it does, in fact, say so in that law?

A When Von Neurath resigned as Foreign Minister, it was the Fuehrer's wish, so far as the outside world was concerned, that the promotion of von Neurath should be emphasized -- be honored. He ordered me to draw up a decree regarding a Secret Cabinet Council which von Neurath would belong to -- this Secret Cabinet Council. Apart from that, as far as I can recall, the foreign minister, the deputy of the Fuehrer, Reichsminister Hess, Field Marshal Keitel, and I myself were to be the other members. I think that's all

H0104 - 0043

But upon creating this, I gathered from statements made by the Fuehrer that this was going to be a matter of a purely formal connection which would create a special position for von Neurath as far as the public was concerned, and I was positively convinced that the Fuehrer would never call a meeting of the Secret Cabinet Council. In fact, the Secret Cabinet Council has never actually met, not even for a constituti nal meeting. It never received any tasks from the Fuehrer. It merely existed on paper.

THE PRESIDENT: Mr. Witness, if it was a secret, how could it affect the public?

A As far as the public was concerned, the resignation of von Neurath as a foreign minister was to be demonstrated. It was to be demonstrated and made known that there were no differences between von Neurath and the Fuehrer which would have possibly been the cause of his resignation. It was to be demonstrated that he was not being put out, but in fact, because of his valuable knowledge of foreign political matters, von Neurath was to be given a better position in foreign politics by being appointed President of the Secret Cabinet Council.

BY DR. NELTE:

Q This, in other words, was a camouflage of his resignation?

A Yes.

Q I have yet one more question. As Chief of the OKW, the accusation has been raised against Keitel that he has affixed his signature to certain laws, and I am now asking you what was the significance of the fact that the Chief of the OKW affixed his signature on its laws?

A Since he was taking care of the work of the Minister for War, he had to countersign these laws in exercising them. He was assuming responsibility so far as the Fuehrer was concerned, that the armed forces, in other words, establishing connection with the Minister for War.

Consequently, so far as the Fuehrer's angle is concerned, he was suppose to ask the Fuehrer whether he could apply his signature or not. In exercising this jurisdiction his authorities were limited whereas Field Marshal Keitel signed the order of the Fuehrer on documents which came under thejurisdiction

H0104-0044

of the Minister for War.

Q In other words, if I understand you correctly, you want to say that Field Marshal Keitel was not a Minister?

A He was not a Minister as becomes clear from the decree that is stated. He only has the rank of a Minister.

Q Do you mean, in other words, that if he had been a minister that you wouldn't have had to give him full ranking of a minister? But then, he was also a member of the ministerial council for the Reich Government. Didn't that make him a minister?

A Nothing was altered in his position in the Reich Government through that membership.

Q You mean no, don't you?

A Yes, I mean no.

DR. NELTE: Thank you very much.

THE PRESIDENT: The Tribunal will adjourn until five minutes past two.

(A recess was taken until 1405 hours)

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Official transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 8 April 1946, 1400 to 1700 hours, Lord Justice Lawrence presiding.

The witness, Hans Heinrich Lammers, resumed the witness-stand:

THE PRESIDENT: Are there any of the other Defendants' Counsel who wish to ask questions of this witness?

BY DR. SEIDL (Counsel for the Defendants Hess and Frank):

Q Can you recollect what Hitler said at the Cabinet meeting regarding his political aims and the program of the new Government?

A Hitler delivered a very long speech, and the Ministers individually took his words. One of the details I remember at this meeting is that the Fuehrer talked first of all about the stopping of unemployment, something which would have to be achieved. Secondly, he spoke about the fact that an economic recovery of Germany would have to be arranged. And thirdly, he talked in detail about what he thought would be achieved if a revision of the Versailles Treaty were to be accomplished, and that it would be necessary to put an end to the defamation which was contained against Germany in the Versailles Treaty, and that it would be necessary for Germany to bring her on an equal footing with the other nations.

All these matters Hitler talked about were then contained in a formal Government declaration. I also recollect that in that declaration there was mentioned the protection of Christendom. I can't remember any more details. But that, I am convinced, are the main points which we were concerned with.

Nothing was discussed which would have made it particularly necessary to keep the matters secret. And what was discussed was in the main contained in the Government declaration which was published in the press.

Q Did Hitler say anything during that meeting that he was going to alter the system of government and that he was going to establish a dictatorship?

A He did say that the present parliamentary system in Germany had been a failure --

H0104-0046

BY THE PRESIDENT:

Q You are speaking about a meeting. What was the date of the meeting you are referring to?

DR. SEIDL: That is the first Cabinet meeting --

A It is the first Cabinet meeting which the Defense Counsel inquired about. I think the first Cabinet meeting was on the 30th of January, 1933. That is the day of the seizure of power.

The Fuehrer furthermore stated that the present governmental system had been a failure. Furthermore, he said that the result of that failure had been that the President of the Reich had been obliged to declare a state of emergency, according to Article 48 of the Weimar Constitution and that he had created an emergency Government, and that it would now be necessary to create a stable Reich Government, a Government which would be in power for many years, and that how one could create such a Government would be something which he would have to discuss with the President and the Reichstag, the German Parliament.

Q Did Hitler say during that meeting, that Cabinet meeting, that he was arranging for a preferential position of power for the N.S.D.A.P.?

A He said that the N.S.D.A.P., the Nazi Party, was of course the strongest party and would as such have to be given due influence in the German Government. But he said nothing regarding the other parties that still existed and were represented, such as the German Nationalist, such as that he would remove them or what he was going to do. Hitler did not say that.

Q Did Hitler state his foreign political aims during that meeting, and did he say in particular that Germany would finally have to be freed of the shackles of the Versailles Treaty and would have to have an equal footing in the community of peoples?

A Yes. I answered that question in the affirmative before. Those were the foreign political aims -- complete revision of the Versailles Treaty.

Q Did Hitler mention at the time that for the achievement of these foreign political aims one would consider another war as a possibility, if necessary -- a preventive war?

H0104-0047

A As far as I know and as far as I remember, a war was not mentioned. At any rate, not a preventative war or an aggressive war.

Q Did Hitler in the time that followed, in cabinet sessions or during any other meeting, when all ministers or members were present state his plan for the achievement of his foreign political aims?

A A general, main, plan, no. Nothering over and above the general points I have mentioned. Neither during that meeting nor during any other meeting did he develop his plans, just as in my opinion he never did discuss in detail his general plans, his long-term plans.

Q What caused Hitler to appoint Hess as the Deputy Fuehrer of the Party and to make him a minister?

A He appointed Hess as Deputy Fuehrer because he, as Chancellor of the Reich, could no longer take care of the business of the Party, in other words, for the technical command of the Party, he had to have another man, and he appointed him a minister because he wanted a man in the cabinet who was in a position to communicate the wishes and conceptions of the Party to the cabinet. Maybe he was visualizing in that connection something which became a law later on, a unity between the Party and the State.

Q Were the leading generals before and after seizure of power--what was their attitude towards the leaders of the Party?

A Before the seizure of power, contact between the Party and the generals did not exist as such. That could only have been in certain individual cases between certain members of the Party and some -- very few-- generals.

After the seizure of power, I had the opportunity to be present when the Fuehrer --that was, I think at the beginning of February 1933 -- met the supreme commanders of the armed forces and had them introduced to him, and I had the impression that the Fuehrer had met only a few of these men previously. They were all introduced to him, and I stood by his side. It was my impression that he knew some -- very few -- of these men and had met them previously.

After the seizure of power, of course, the connections between the leaders of the Party and the generals became closer, since the Party was included into the State to a considerable extent, but what I would like

H0104-0048

to say is that relations, general relations between the Party--that is to say, theReich leaders of the Party and the political leaders of the staff of the Party on one side, and the leading generals on the other, and even the generals of a slightly junior rank were at no time going beyond the purely formal or so-called social relations. I would almost like to say that they were duty social contacts when one met at celebrations or demonstrations and very occasionally. I feel that the overall relations between the leadership staff of the Party on one side and the generals on the other did at no time become any closer than that.

Q Witness, as far as these contacts were concerned, did they ever change after Hitler became the leader, the head of the State and Supreme Commander of the Armed Forces?

A As far as the generals are concerned, I am of the opinion that nothing in principle changed, since the generals regarded the Fuehrer as not being the leader of the Party but as the head of the state, and they considered him as the supreme commander of all the armed forces. Consequently, they did not believe that any particularly close relations to the generals ought to be established.

Q Did meetings take place for the discussion of political aims between the Reich government, the Reich leaders of the Party, and the high generals?

A Such joint meetings are out of the question. They never took place. That would have been impossible because of the large number of people involved.

Q Were members of the Reich government and the Reich leadership staff of the government and the leading generals in a position, as far as important questions referring to the nation were concerned, and particularly referring to war or peace, to define their attitude when they talked to Hitler?

A Jointly, these three groups -- If I can call them that --jointly, they could not voice their opinions. They were not interrelated. Every individual one of these leader staff of the Party, the government and the generals, could, as such, not define their views either, particularly since

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they knew little about the Fuehrer's political and economic aim. They knew nothing about them, so how could they define their attitude? They knew because they were executing these matters and because they saw the facts, but they were surprised by them quite frequently, and any lter reaction would have meant a stab in the back against the Fuehrer's policy.

So that a political main plan of Hitler's in which these

H0104 - 0050

chief groups were included, did not exist at all, and, therefore, on could not talk about a conspiracy?

A I know of no such general plan, but I can assure you of one thing, and that is the leading majority of ministers knew nothing of any such general plan. They never had any knowledge of it. Just how far the Fuehrer informed individual persons of such a general plan, I do not know. I was not present, but probably--or possibly--the Fuehrer may have told one or the other person, perhaps the Party or the government or the generals, perhaps he did tell them of some plans, but just what they said, what was mentioned, that of course I do not know, and whether they agreed with the Fuehrer in such case or whether they disagreed, that I cannot say either, just as I do not know whether shortly before the execution of any large scale political plans, such as for instance the march into Czechoslovakia or any such matter, whether shortly previously they did consult with the Fuehrer and advise him, whether they agreed, whether they contradicted him, or whether they merely took their orders from him which they had to execute.

Q If I understand you right, then you want to say that all political decisions of any magnitude were taken by Hitler alone?

A The large scale political decisions were certainly arrived at by him alone, possibly after consultation and participation of a few persons, but never with the participation of the Reich government, because, if I should mention it, then I should say that when we left the League of Nations, that was the last time that Hitler informed the Reich government of an action. Then came the important action of the march into the Rhineland.

Q Forgive me if I interrupt you, but I was told that you ought to speak a little more slowly.

A More slowly? Certainly.

H0104-0051

A More slowly? Certainly.

The Cabinet was informed that we were going to leave the League of Nations; they were informed previously.

Regarding the march into the Rhineland, there was no informing of the Government; only after the march had taken place did the Fuehrer inform the Reich Cabinet as far as the march into Austria was concerned, or the march into the Sudetenland. The march into Prague and the outbreak of the Polish war had the beginning of all the other campaigns against Norway, France, Russia and so on, and so forth. In all these cases the Fuehrer neither informed the Reich Cabinet first, nor were they informed afterwards.

So, as far as all ministers were concerned, there was a certain danger, since these large plans which had certain significance to the Administration had not been communicated to them, that they were put before the accomplished facts.

Therefore, I can certainly say that all these decisions were made by the Fuehrer alone, and of course, how much he consulted individual persons is something I made a statement about earlier, saying that I didn't know. However, on the whole, I can say that the majority of the ministers were not informed about any of these actions. They were only generally informed, like every reader of the newspapers and every radio listener, one or the other, as, for instance, I had heard perhaps a few hours before the event when things were made known to the press. But as to any previous consultations or information of the Fuehrer, so far as that is concerned, that never took place.

Q Please, would you tell me just how it was that the entire governmental powers could be transferred entirely to the Fuehrer?

A That transfer occurred -- how shall I say -- gradually, as a matter of habit.

Q Slowly, please.

A First of all, the Fuehrer and the Reich Government had been given powers through the law which had been published in the Reichstag; they had been given the power to alter the German Constitution. These powers were made use of by the Reich Government by means of extraordinary laws, but,

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of course, they were also used by means of silent suffering, of habit, and the formation of governmental habits such as appeared to be recognized in all countries. Particularly during the first years, and of course all during the later years, the law of usage and habit developed, which meant that the Fuehrer acted more independently than should have been the case according to the Weimar Constitution. Largely, political questions were all removed from the jurisdiction of the Cabinet by the Fuehrer.

That was in 1933 and 1934, when Hindenburg was still alive, and during that time the Fuehrer did not wish that general political questions be raised in the Cabinet by any minister. I have repeatedly had to inform ministers that they were to refrain from bringing up questions which did not belong in their immediate sphere of influence and discuss them in the cabinet.

For instance, on one occasion I had to pass on such information to those men who wanted to discuss church policy. I had been forbidden to put any general political questions on the agenda of such a Cabinet meeting. If, in spite of that, a minister raised a political question during a meeting of the Cabinet, then the Fuehrer used to speak himself and deal with that individual person, or order him to report personally.

Then the period developed when, after Hindenburg's death, the Fuehrer became both the head of the State and the leader, and then such debates in the Cabinet, as long as there were Cabinet meetings, were stopped altogether. Nothing could be debated. The ministers were not allowed to feel that they were political ministers. I had to communicate these facts to them repeatedly, by order of the Fuehrer, and tell them to refrain from raising any particular questions during Cabinet meetings.

Then came the time, which I have already described, during which these large-scale political actions took place, and no Cabinet meetings took place at all. The Fuehrer acted independently and alone, and all statements were made on behalf of the Reich Government. He himself made these declarations, alone and without consulting anybody first.

I must admit that the Cabinet quite often complained about that, but nevertheless failed to perpetually resist that custom.

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So gradually, the governmental powers -- if I now consider the "government" such as is laid down in Anglo-Saxon law under "Government", then there was no longer any Reich Government after 1936 in its proper entirety, consisting of minister. That form of government ceased to exist in 1936. The Fuehrer was the Reich Government, and those powers had slipped into his hands.

All I can say is that it may have been wrong, it may have been stupid, but it wasn't a crime. It was a political development such as has happened repeatedly in history.

I only waht to remind you that in ancient Rome, where the Senate had the powers and had all powers, in that connection there was a gradual --

THE PRESIDENT: When you see two lights in front of you, you are either speaking too fast or else the system has broken down, and you must stop altogether.

THE WITNESS: Very well.

BY DR. SEIDL:

Q Go on, but you must speak more slowly.

H0104 - 0054

A These developments in ancient Rome were just exactly the same. The Senate had all powers, and extraordinary laws, leading to --

THE PRESIDENT: Will you kindly keep silent when the Tribunal wishes to speak?

THE WITNESS: Yes, but, of course, I don't know when they do.

THE PRESIDENT: The Tribunal really doesn't want to hear a history of ancient Rome.

THE WITNESS: Very well.

BY DR. SEIDL:

Q Witness, you have described the development when the governmental powers slipped into Hitler's hands.

A Yes, but not completely.

Q Well, in that case, please continue.

THE PRESIDENT: We have had quite enough. We quite understand that he is saying that Hitler took over all powers and would not listen to any debate at all. It is perfectly clear that he said so.

DR. SEIDL: Yes.

BY DR. SEIDL:

Q Witness, will you please tell me one more thing? And this is my last question in this connection. Please tell me whether you, as Minister of the Reich and Chief of the Reich Chancellery, considered the development you have just described as legal.

A I have considered that development, in the first place, from the point of view of the legalist, and I have discussed these questions repeatedly with Hitler, and I consider it perfectly legal and, if it is necessary, I can quote you my reasons in detail. Particularly, I consider that development legal because of the well-known Enabling Act and later laws which gave plenipotentiary powers to the Government. Therefore, the Government, in turn, was in a position to detach some of those powers to the Fuehrer and to pass some of them on. In that manner the Reich Government, as such --

THE PRESIDENT: Dr. Seidl, the Tribunal isn't really interested in whether or not it was legal. What the Tribunal is interested in is whether crimes against other nations were committed. We certainly don't want to hear this in such great detail.

H0104 - 0055

DR. SEIDL: Yes, but the main point in the indictment is Point I, and that is concerned with the conspiracy.

THE PRESIDENT: The main point in the indictment is not whether it was in accordance with German law that Hitler should take over the powers of his government. There was no such point made in the indictment.

BY DR. SEIDL:

Q Witness, I now turn to some questions which only concern the defendant Dr. Frank.

Since when do you know Dr. Frank and what were his activities up to the outbreak of the war?

A I met Frank during the year 1932. If I understand you rightly, you want to know his activities from the outbreak of the war?

Q Yes.

A Well, first of all, he was the Chief of the Legal Division of the Party. Then, for the Party point of view, he became Chief of the National Socialist Union of Lawyers, which, later on, became the Union of Legalism. Then he became a member of the Government, and upon seizure of power in 1933 he became Minister of Justice in Bavaria. At the same time he became Commissar for Legal Reforms.

Later on--and I can't tell you the exact year--he became Minister Without Portfolio, and he was the President of the Academy of Law. He finally became Governor General.

THE PRESIDENT: We have had the defendant Frank's posts proved to us already. I should think, probably more than once. We don't require them from Dr. Lammers.

DR. SEIDL: In that case, I want to put another question to the witness.

BY DR. SEIDL:

Q Witness, what was the relationship between Frank and Hitler?

A The relationship between the two was, at the beginning, I should like to say, good, but not particularly close. At any rate, during the whole time he did not belong to those who could be called the closest consultants of the Fuehrer.

H0104 - 0056

Q What was Frank's attitude towards the police state and the question of concentration camps?

A Frank has repeatedly made speeches in public when he was working for or talking in favor of a legal state, though probably not very strongly. He confined his views to being opposed to internment in concentration camps, since such detention was without a legal basis. These speeches made by Frank were frequently the cause of a severe blame from Hitler, so that in the end the Fuehrer instructed me to order him to remain silent, even in the publishing of these speeches. Finally, the result of these activities of Frank's, when he was working for the legal state, wasthat he was removed from his office as the Reich chief of the legal section of the NSDAP--the Party.

Q Wasn't he made to resign as president of the academy of law?

A Yes, that happened at the same time; and, at the same time, the union of lawyers.

Q Another question: Did Frank as Governor General have considerable powers, or was it not ratherthe case that his position was very unstable? You can certainly say that in many ways his powers had been damaged.

A There are a number of arguments: One was caused by the armed forces. That didn't affect him so much, because commissars in occupied territories were never army chiefs. But then Reichsmarshal Goering, as plenipotentiary for the Four-Year Plan, had considerable powers to issue orders to both the Party and the state in all occupied territories, therefore including the Government General, so that he therefore could give orders to the Governor General, and he could in fact work against the orders of the Governor General and cancel them.

Certainly, Frank's powers as Governor General were considerably limited through the police, since Himmler as chief of the German police had legal powers as police chief which he was to coordinate, nevertheless, with the Governor General, which wasn't always done.

Furthermore, the Governor General suffered a further loss of power through the fact that Himmler became Reich Commissioner for the consolidation of German national qualities, and as such had to reorganize resettlement, and in fact did do so without asking the Governor General first.

H0104 - 0057

These were further limitations in favor of Minister Speer in favor of rearmament, and there were further limitations on behalf of the postal services, railroad services, and so on; but these are the chief infringements or losses of power in the case Frank.

Q What, according to your observations, was Frank's principal attitude towards the Polish and Ukrainian peoples, and what was the policy he tried to achieve?

A In my opinion he always tried to have a moderate policy and to create an atmosphere in favor of Germany inside Poland, but he didn't alwaysachieve that, and prticulrly were his failures due to the fact that the powers of the police and Himmler's powers were so predominant in the sphere ofresettlement that his measures and his intentions were disturbed and suffered setbacks. He found it difficult to assert himself.

Q Did he have any intentions of Germanizing people, or is it true that he opposed Himmler's policy as commissioner for the saving of German national characteristics and that he opposed them wherever possible?

A I wouldn't have thought that Frank would be silly enough to have Germanizing intentions or intend to make the Poles into Germans, but maybe he tried to win the people of German origin in Poland for the German case. But he had difficulties regarding this resettlement scheme, since he hadn't been asked previously, and since by means of resettlement people had been pushed into the Government General. In that respect he and I agreed perfectly. I have repeatedly told the Fuehrer about this and reported to him that these mass resettlements couldn't be done all at once and without the agreement of the Governor General and that he couldn't govern if these resettlement measures weren't communicated to him first -- if he had no influence upon these measures.

Q Witness, you stated earlier that the entire security police and the SD in the Government General were under the immediate jurisdiction of Himmler and the chief of the German police. Did Governor General Frank not try to work against the policy of force of these two men? Did he not try to object and to rectify the matter?

H0104 - 0058

A On this point he has raised repeated complaints addressed to me. They had the aim that I should take them to the Fuehrer, which, however, I only succeeded in doing in part. In one point, however, we did want to help. In the Government General there was established a secretariat of state for the security system. This was under the Higher SS police leader Krueger. This, however, only functioned for four to six weeks and then the differences of opinion borke out once more. The secretary of state Krueger stated, "I am receiving my orders from Himmler." If the Governor General would complain, then Himmler would say, "These are all unimportant matters. I have to be able to rule on them directly."

And the Governor General said, "But to me they aren't unimportant. To me those things are important indeed."

The channels of command and the cooperation with the Governor General were not being observed, and it is therefore perfectly obvious that he had a very difficult position because of this police system.

Q Is it correct that the Governor General repeatedly, both verbally and in writing, stated what he objected to, and what were the reasons?

H0104 - 0059

A He repeatedly offered his resignation because of these conflicts which he had, in particular with Himmler, and because in the case of these conflicts he was never told that he was right. Himmler usually was the winner with the Fuehrer, and there were repeated offers to resign which were brough to me and which I wasn't even allowed to submit to the Fuc Fuehrer. But, of course, I informed the Fuehrer of the intentions to resign from the Government G eneral. The Fuehrer repeatedly, several times, refused Frank's offer to resign.

Q Do you know that the Reichsfuehrer SS Himmler was working towards having Frank removed?

A The Reichsfuehrer Himmler personally was indubitably an opponent of Frank's. There is cause for me to gather from certain statements made by Himmler with regard to Frank that Himmler would have liked it a great deal if Frank had been removed from his position; and pulling the same string was Reichsleiter Bormann, who wasn't very well disposed towards the personality of Frank either.

Q Who in the G overnment G eneral had jurisdiction of the concentration camps and who was responsible for their installments?

A. The concentration camps were under Himmler, and responsible for the administration and organization were departments under Himmler's control. There was the economy department, I believe, attached to the SS, which was responsible for ad inistration; but concentration camps as such were under Himmler's jurisdiction.

Q Who was responsible for all questions connected with the so-called Jewish policy in the Gov ernment G eneral?

A In occupied territories the Jewish policy in its larger conception was handled by Himmler, who was directing it, but of course, the G overnor G eneral was also in touch with measures directed against Jews--for instance, combatting of spotted fever, and, I think, the ir branding--that is to say, police measures which were applied by the police in the Government G eneral. But the principal policy in Jewish questions, as I learned afterwards, of course was entirely handled by Himmler alone, who had been given these powers by the Fuehrer.

H0104 - 0060

Q Is it true that the Governor General, as early as 1940, continuously raised complaints regarding the activities of the army police and the police leaders?

A I can confirm that. I can confirm that that has happened several times. In particular were these complaints directed against the fact that the SS and police courts were assuming powers in the Government General which they didn't actually have. Consequently, the activities of these courts were withdrawn from the appropriate sources. There were, for instance, shootings of hostages, and he has repeatedly complained about that. I want to state that all complaints which came to me weren't, of course, complaints against me; they were merely said to me so that I would pass them on to the Fuehrer.

H0104 - 0061

Q Is it correct that the Governor General continuously made objections about the exploitation of the Government General by the Reich, particularly regarding grain and sugar supplies?

A He has often raised objections but the demands which were put to him were increased. He has, I must say, mostly fulfilled them, which must have been extremely difficult for him.

Q Do you know that the Governor General objected to the removal of art treasures by Himmler's organization?

A That, I have only a very faint recollection of. It is possible that he has complained about the removal of art treasures but I can't remember any details in that connection.

Q And now the last question. Is it true that the Governor General in many documents, as early as 1940, made proposals regarding the improvement of living conditions of the population to the Fuehrer and not until much later did the Fuehrer consider the policy which had been advocated by Frank as correct?

A Frank has often objected to a policy of exploitation. He wanted a constructive policy; that is to say, even a cultural policy of reconstruction. He had suggested, for instance, that the departments attached to the administration should have advisory Polish committees but that had been refused. He had spoken in favor of the creation of schools and high schools and various other such cultural aims, all of which had been refused.

On one occasion he had submitted a long memorandum. This referred to a Polish organization which called itself "the Plough and Sword," which had offered to cooperate with the Germans, and Frank submitted detailed proposals in a large memorandum, saying that these Poles could be won over to cooperate with them when met on proper terms. All these suggestions, coming from Frank, were turned down by Hitler. It isn't right what you are saying, that it wasn't until the last moment that the Fuehrer agreed to these suggestions. All I can say is that they were all turned down without exception.

DR. SEIDL: I have no further questions.

DR. THOMA: Dr. Thoma, counsel for Rosenberg.

H0104 - 0062

BY DR. THOMA:

Q By a decree of 17 July 1941, the defendant Rosenberg was appointed Minister for the Occupied Eastern Territories. Would you please tell the Tribunal very briefly, by means of which decree that his authority was limited?

A I can do that very briefly by saying, by repeating what I said before. The same limitations which applied to the Governor General also apply to him, these limitations which I have just quoted, but I have to add one thing to that. The position of Minister Rosenberg was made particularly difficult through the fact that the differences of opinion which existed between him and the Minister Goebbels on the subject of propaganda, were making things particularly difficult for him.

It had been the Fuehrer's order that Rosenberg was to make the Eastern Policy and Goebbels was to make propaganda, but these two things couldn't always be coordinated. There were considerable differeces of opinion between Rosenberg and Goebbels which could only be settled after lengthy negotiations but which in their result produced nothing more than a very small result, because the differences of opinion whichhad only just been settled, occurred again during the subsequent weeks and there was a further limitation which is different from the case of the Government General and which was that Rosenberg had two commissars for the Occupied Eastern Territories; one was Kommissar Lohse and the other one, I am coming to that later.

Q Can you remember that before the 17 July 1941 decree, there had been a leader conference--I mean, the day before July 16, during which right from the beginning, Rosenberg complained that his ministry had no police powers but that the entire police authority was to be transferred to Himmler?

A Rosenberg was, of course, not agreeable to police powers vested in Himmler. He did object but without success. Police matters in other occupied territories had already been so arranged as in this case. The Fuehrer would not depart from his views.

H0104 - 0063

Q In the general instructions to the Reich Commissars or commissioners, there is a passage where it says that the higher SS and police leaderwould be subordinate directly under the Reich Commissar. Did this mean that the police leader or rather that the Reich Commissar even in matters of police topics could give instructions?

A No, No; the final word had been retained with Himmler but the higher police leader had instructions to get in touch with the Reich Commissioner and, of course, to consider the political decisions, not so much the others.

Q May I ask you to tell the Tribunal, briefly, what were the political concepts which Rosenberg had from the beginning until the end with reference to the treatment of the Eastern populations?

A In my opinion, he always had, he always intended to have a moderate policy. No doubt, he was opposed to a policy of extermination and to a policy of deportation, which had frequently been preached, and he was anxious to put the agriculture into order through corresponding degrees, to put the school system in order, to look after the churches, the universitie and the schools but he found it difficult to succeed since one of the two Reich Commissioners, namely Koch, in the Ukraine, opposed Rosenberg's measures, but I should even like to say he merely disregarded Rosenberg's orders.

Q Of course, I was talking about the large political field, the large scale conceptions; has he ever talkedto you about that, that he was imagining a situation where the Eastern peoples were to be given autonomy?

A Yes, I can answer that in the affirmative.

Q Has he mentioned to you that he intended that they should have the right of self-determination, that this should be extended to the Occupied Eastern Territories?

A Whether he said it in just that form, that I cannot recollect respectively but at any rate, he was in favor of establishing a certain independence.

Q Do you mean "autonomy"? And was he interested, therefore, in looking after these peoples of the East in the cultural way?

H0104 - 0064

A Yes. He was particularly interested in that. I know that because he took an interest in the schooling system, the church and the universities.

Q Was that possibly the cause of the conflict which he had with Commissioner Koch?

A That and many other things, yes. He, Koch, was an opponent of the new agricultural arrangement that had been considered particularly favorable by Rosenberg and in the furtherance of his aims, and it has been sabotaged by Koch.

Q Can you quote any other spheres where Koch made difficulties for the Minister for the East?

A I can't at the moment recollect any.

Q Do you know there was a final row between the two when you were given the order, in collaboration with Bormann, to conduct negotiations between the two, and can you remember that Rosenberg refused and demanded that the matter should be brought before the Fuehrer?

A The differences of opinion between Rosenberg and Koch were very numerous. They filled volumes and volumes of files. The Fuehrer had given the order that Bormann and I should investigate these matters. Many weeks passed but after the investigation had been completed, there was never a decision from the Fuehrer. The Fuehrer always postponed the making of a decision, and on one occasion--perhaps that was the case which you, Doctor, are thinking of-- and on one occasion the differences were particularly keen and the Fuehrer sent for Rosenberg and Koch but instead of deciding upon these differences of opinion and instead of a pertinent decision, came to the decision that these two gentlemen should meet once every month and cooperate. That was a matter of course which to Rosenberg, as far as the Minister was concerned, was insufferable, that he should collaborate with the commissioner who was under his jurisdiction, who was the junior, and apart from that, it was practically impossible to carry out in practice, and these two gentlemen only met no more than once or twice and when they did meet, then no agreement was reached. And lastly, the Fuehrer considered Koch right.

H0104 - 0065

Q How did that express itself? How did the fact that the Fuehrer thought Koch was right, find its expression?

A Because the Fuehrer refused to listen to the complaints of Rosenberg which, in my opinion, were justified and did not make a decision, just meant considering the fact that Koch was given the right.

Q Rosenberg said that the result had been that Hitler had given him the order to confine himself to the administrative matters in the East? Is that right?

A Roughly, I think that was the Fuehrer's decree on that occasion, on the occasion when he also told the two to cooperate.

Q How was Rosenberg's relationship to the Fuehrer, and when was Rosenberg's last visit to the Fuehrer?

A As far as I know the last visit of Rosenberg happened towards the end of 1943, and before that, he had considerable difficulties to get to see the Fuehrer. He didn't see him very often.

Q Didn't this tension have the result that Rosenberg at the end of 1940 or in the autumn of 1940, offered his resignation?

A It wasn't actually an application to resign, since the Fuehrer had prohibited such applications, but he did say that if he couldn't conduct the business properly and to the Fuehrer's satisfaction, then he would like to be relieved. The result really was an application to resign, yes.

Q Can you tell the Tribunal anything about Rosenberg's relation to the population and his influence on the population in the Eastern territory? Is it correct particularly to say that a number of leaders of the churches in the Occupied Eastern Territories thanked Rosenberg because of his tolerant attitude and because he allowed them to carry out their religious culture freely?

A I only know of that from personal statements Rosenberg made to me and merely superficially. I think he merely told me something like that, yes

Q I have yet one more question. It has repeatedly appeared during this trial that Hitler's military entourage considered him a military genius. What was the situation in the administrative sphere? Hitler was the supreme legislature at the end. He was the supreme chief of the

H0104 - 0066

government and the head of the State. Did his administrative entourage encourage him in the thought that all his decisions were correct, were right, and that he was doing something superb, or who did strenghthen his views?

A In this sphere, too, the Fuehrer had the ability to decide unusually quickly and his judgment was almost always right. He was in a position to decide upon about the principles which he desired for legislation and administration. He often used that and one of the executive officers, the administrator in question--sometimes it was my task--had the task to carry out what the Fuehrer decided on the strength of his tendencies and his basic thoughts, and we had to formulate it appropriately. If any objections did arise in such connection, then it was perfectly possible to bring such objections to the Fuehrer, unless, of course, they infringed on the principle: in other words, on any increase or decrease in such measures or any new version it was perfectly feasibb to bring it to him, but not if any of his basic tendencies were affected. That, of course, was very difficult.

Q But, now, regarding the individual problems, did he personally make the pertinent decisions or did he in any way find that certain aims he had in mind were interfering?

A Nothing much has come to my notice. Normally, during the recent years, I only made a report every six or eight weeks; in other words, I saw Hitler two or three times per annum or ten times at the most and, of course, on problems we could not discuss. Generally speaking, the Fuehrer left it to his administrators regarding the administration.

THE PRESIDENT: We have heard it over and over again about Hitler.

H0104-0067

BY DR. THOMA:

Q I have one more question. Did you know anything regarding the fact that Hitler had decided to achieve a final solution regarding the Jewish question, that is the destruction of Jews?

A Yes, much is known to me about that. The final solution of the Jewish question became known to me for the first time in 1942, that is when I had heard that the Fuehrer supposedly, through Goering, had given the order to the Obergruppenfuehrer of the SS, Heydrich, to achieve a final solution of the Jewish question. The exact contents of that order did not reach me and consequently, since th s did not come into my sphere of activity, I first of all refused to concern myself with it but when I wanted to know some details later on I did, of course, contact Himmler. I had to contact him to start with and I asked him what the final solution of the Jewish question meant. Himmler replied that he had received the order from the Fuehrer to bring about the final solution of the Jewish problem or respectively Heydrich and his successor, had that order and that it was the main point of the order that the Jews were to be evacuated from Germany. With that statement I felt satisfied and I adopted the attitude of waiting, since this did not fall into my sphere of activ ity and I first of all wanted to hear something more from either Heydrich or his successor, Kaltenbrunner.

Since nothing did come, however, I wantedto inform myself about the matter and in 1942 I announced my intentions to call on the Fuehrer, whereupon the Fuehrer told me that yes, it was true. He had given Himmler the order to evacuate but that he did not want any further statements on the Jewish question during the war. Shortly afterwards, and this is the beginning of 1943, the R.H.S.A. sent out invitations to attend a meeting which had an item on the agenda, "Final Solution of the Jewish Questions." I had previously sent out an order to my officials that I was not defining my attitude in this connection since I wanted to present it to the Fuehrer and I had ordered if invitations for a meeting went out then one of my officials would have to go there more or less as a listener.

A meeting did actually take place but no result was reached. A protocol was supposed to be sent out and the various departments were supposed to reply

H0104 - 0068

to it. When I received these minutes I found that it contained nothing vital and for a second time I forbid my staff from defining their attitude and I myself refused to and I remember very well indeed that a letter which I had received had first of all been signed by a very small man indeed and who in my mind had no right to sign and he had written me and asked my why I had not commented. Secondly, the tone of the inquiry was very unkind, saying that everybody had commented upon it except me. I ordered that the reply should be that I had refused to define my views or attitude since I wished to first of all take the matter before the Fuehrer.

In the meantime I once more addressed myself to Herr Himmler. I told him that it was necessary to discuss these questions since a number of problems would have to be solved, particularly since the intention to achieve a final solution of the Jewish question would probably extend to persons of mixed blood, first grade, and would also extend to the so-called privileged marriages, that is to say marriages where only one party was Aryan whereas the other part was Jewish. The Fuehrer stated once more that he did not wish to have a report on it but that he had no objections against consulting upon the problems. That actual evacuations had taken place had become known to me. At that time, however, no mention had been made of principal evacuations. I only knew that there were individual cases and I always addressed myself to Himmler and these individual cases were always treated favorably by Himmler, these cases which had reached me by means of complaints.

Finally, in 1943 rumours cropped up according to which Jews were being killed. I had no jurisdiction over this sphere except that occasionally I would receive complaints. On the basis of these complaints I investigated the rumours but as far as I am concerned all I could find out was that there were rumours. One said he had heard it from the other and nobody wanted to make a definite statement and I am in fact of the opinion that these rumours were due to listening in on foreign broadcast stations and these people just did not want to say where they had gotten the information from.

That caused me once more to write an attack on this matter. First of all, since I myself could not investigate matters which came under Himmler's jurisdiction, I addressed myself to Himmler once again. Himmler denied any

H0104 - 0069

killings and told me with reference to the order from the Fuehrer that he had the duty to evacuate the Jews and during such evacuations there cases of death of old people which did occur, there were accidents, there were attacks by enemy aircraft. In fact, he added that there were revolts, which, of course, would have to be suppressed with a great loss of blood so as to deter these people. Apart from that these people would be accommodated in camps in the East and he brought out a lot of pictures in albums and he showed me the work that was being done in these camps by the Jews and how they worked for the requirements of war, that there were tailor shops. He told me:

"This is the order of the Fuehrer and if you believe that you should attack that position then you had better tell the Fuehrer or you had better tell me the people who have made these reports to you."

Of course, I could not, first of all because they did not want to be named, and secondly, they only knew these things by heresay so that in fact I could not have given him any material at all.

Nevertheless, I once again reported the same matter to the Fuehrer and on that occasion he gave me practically the same reply which I had been given by Himmler and he said:

"I shall later on decide where these Jews will be taken and in the meantime they are accommodated there."

Then he said the same thing Himmler said and that created the impression upon me that Himmler had told the Fuehrer--Lammers is about to come and see you and he will probably raise the point with you.

But that final solution of the Jewish problem was nevertheless in my files and I was determined to bring it up once again with the Fuehrer. I only succeeded in doing so on the occasion of some particularly severe cases, cases which were such that the Fuehrer had to let me talk to him about it. I must quote as an example a most outstanding case. If a Jew was married to a German then the marriage was considered privileged, that is to say, he was not evacuated. But if the wife died, then the marriage would no longer be considered privileged.

DR. THOMA: Mr. President, I should rather like to ask the witness myself to be as brief as possible but I would ask you to admit one question. In my opinion the witness is trying to describe how the entire solution of the

H0104-0070

Jews came about and that it was done with the deception of the entire entourage of Hitler and that is why I ask that the witness be allowed to talk since these are decisive questions regarding the entire organization.

BY DR. THOMA:

Q Witness, please will you be brief and I am now putting this question to you. Did Hitler tell you at any time that the final solution of the Jewish problems should be exterminating them?

A That was never mentioned. No, we only talked about evacuations.

Q He only talked about evacuations, did he? I see.

A Yes, only evacuations.

Q When did you hear that Jews were being exterminated, when did you hear that Jews, these five million Jews were being exterminated?

A I heard of that here a few weeks ago.

Q In other words, the whole matter was being kept completely secret and only very few persons knew of it?

A Yes, I assume that the way Himmler did it was that he nevertold anybody and he formed his commandos in such a way that nobody knew about it. Of course, there must have been a number of people who must have known about it.

Q What number of people must have known about it?

A I cannot understand.

Q Can you tell me anything about which people did know or must have known about it, apart from those who carried out these exterminations? Who, apart from those, must have known about it?

A Well, to start with Himmler must have passed his orders on to other people and certain leading officials must have known.

Q And apart from that?

A And these leading officials, of course, must have passed on their orders down to other leading officials and it went down to the commandos and the whole lot of them must havekept it completely secret.

DR. THOMA: No further questions.

THE PRESIDENT: We will adjourn now.

(A recess was taken.)

H0104-0071

BY DR. PANNENBECKER (Counsel for defendant Frick):

Q Witness, you have already talked about such questions which are of importance for the defense of defendant Frick, since he has been a member of the Reich Cabinet. Can you tell me on the strength of what position you are particularly suited to give such answers? I repeat, how is it that you on the strength of your position, can answer these questions?

A You mean my own?

Q Yes.

A I was Secretary of State in the Reich Chancellory, and I was the intermediary between the Fuehrer and the Reich Minister, with two exceptions: Either, if the Fuehrer decided to go a direct way to these gentlemen, or if these men in qestion chose another way to the Fuehrer, not through me. There were a numberof things which didn't go through my hands, whenever these ministers submitted them to the Fuehrer directly. These were all matters referring to a large scale foreign policy, particularly. Only in 1937, on the occasion of certain alterations of the cabinet, did I receive the title "Reich Minister", but my tasks did not change. In particular, I had no fear of influence nor jurisdiction.

Q Can you tell me when the last meeting of the Reich Cabinet took place?

A The Reich Cabinet met for the last time in November, 1937, but, on the other hand, in 1938, at the beginning of February, there was one more so-called "information conference" between ministers, during which the Fuehrer announced the alterations which were being made in the Government, which were referring to von Blomberg and von Neurath. The last cabinet meeting, however, when actual consultations took place and when a penal code was being drafted, took place in November, 1937.

Q Can you tell me anything about any attempts after that date to get the ministers together?

A After that date I continuously attempted to effect a concentration of the Reich Cabinet. I would like to say, I wanted reactivation. This was continously refused by the Fuehrer. I had even prepared a draft, a draft for a decree, according to which ministers would at least have

H0104-0072

the possibility to consult with each other, say once or twice a month, and under the chairmanship of Reichsmarshal Goering, or, if he were prevented fr m attending, under my formal chairmanship. All I was aiming at was a meeting of ministers for information and reporting, but that, too, was turned down by the Fuehrer. Nevertheless, the ministers had the urgent wish to meet. So, I made a further suggestion, namely that once or twice a month the ministers should have a social evening, drinking beer, so that they could get together and talk. To that the Fuehrer replied, "Mr. Lammers, this isn't your business; it'smy business. The next time I go to Berlin, I'll do so." And again this didn't take place.

THE PRESIDENT: What are all these details about beer drinking? If they did not meet and he applied to the Fuehrer, asking them to meet and they never did, that is sufficient. What is the good of going into detail?

BY DR. PANNENBECKER:

Q Is it correct, therefore, to say that the ministers as individuals had to work on their own, but that a Reich Cabinet as such, which decided upon political questions and was informed and discussed them, did not exist at all?

A- In principle, ministers were no longer anything than the supreme administrative chiefs in their sphere. They no longer acted in the cabinet as political ministers. I have been trying to describe that earlier on no further meetings took place. In fact, they were even forbidden. So, how could it have been possible that they could exchange views?

Q Do you know anything about a statement coming from Hitler that he considered the cabinet as a defeatist club?

A During my attempts to reactivate the Reich Government and to bring about certain meetings, the Fuehrer told me that this would have to be stopped since an atmosphere could be created which he wouldn't like very much. He didn't use the word "defeatist club" before me, but Reichsleiter Bormann told me that he had said, "Ministers shouldn't meet since this could become a defeatist club."

Q It has been discussed quite frequently here that the Reich

H0104-0073

Minister on his own couldn't resign. Do you know whether Frick made an attempt to resign?

A In spite of this prohibition, Frick has repeatedly stated his wish to be relieved of his office if he no longer enjoyed the Fuehrer's full confidence and if the Fuehrer wouldn't receive him any more. He has told me that frequently; but an application to resign in writing I cannot recollect: Frick's wishes regarding his resignation were, of course, passed on to the Fuehrer by me in every case, although such transmissions were always severely turned down by the Fuehrer.

Q In August, 1943, Frick left his position as the Minister of the Interior. Do you know any details about what he said in that connection, personally?

A At that time he himself told me, "I am glad to leave my position as Minister for the Interior, but, please, see to it that the Fuehrer does not make me Reich Protector of Bohemia or Moravia, as he is intending to do. I don't want that job. I want to retire." And I told that to the Fuehrer.

So, the Fuehrer ordered Frick to come to his headquarters. Before Frick went to see the Fuehrer alone, he told me that he did not under any circumstances want to accept the position of Reich Protector, but, when he left the Fuehrer, he had, nevertheless, changed his mind and he had accepted the job. If I am right, this must have been in August, 1943.

Q Frick is accused of being Plenipotentiary for Reich Administration. Do you know anything abut that office?

A He had the task of coordinating other ministries as Plenipotentiary for the Administration, the Ministry of the Interior, Ministry of Justice, Ministry of Education, Ministry of Churches, and Department for Reallocation of Space. He coordinated them under his command and represented them in the Administerial Counsel for Reich Defense, which came into being in 1939 with the outbreak of war.

Q Can you tell me which is the basis for his appointment as Plenipotentiary for Administration?

There are two Reich Defense Laws, one for 1938 and one for 1939,

H0104 - 0074

A The Plenipotentiary for Reich Defense Laws I cannot recollect. The draft of that law, which was not published, the Reich Defense Law of 1938, allocates to the Plenipotentiary for Administration, a number of tasks which he did, in fact, never take over. He has only taken over the task of coordinating these various departments, which I have just mentioned. Actual powers as general Plenipotentiary for the Reich Administration were never exercised to that degree, which had been allocated to him in that Reich Defense Law.

H0104-0075

Q In this connection, it has been mentioned that there was a so-called Three Men College, or collegium, which was supposed to have consisted of Frick, Schacht, and the Chief of the OKW. Can you tell me anything about the expression "Three Men College"?

A The "Three Men College" is quite wrong. It is not a legal conception. It was an auxiliary expression that was used, a make-shift word. These three people, the General Plenipotentiary for Administration, the General Plenipotentiary for Economy, and the Chief of the OKW each had such powers as were necessary to promulgate decrees, but they were tied down and had to get the agreement of the other two. In other words, one could give instructions after the other two had agreed, and meetings of the so-called three men college, or collegium, have never taken place. The decree, or decrees, which have originated from it are very few indeed and altogether quite unimportant. For instance, I can remember that this council has ruled on the question of reducing judges, which are matters referring to civil service, and there are one or two, in fact, a total of six or eight, and altogether quite unimportant.

Q There was later on the Ministerial Council for Reich Defense. Can you compare these two, in other words, the three and the Ministerial Council for Reich Defense?

A Do you mean the Three Men College?

Q Yes.

A First of all, after the Ministerial Council for Reich Defense was established, it was my principle to exclude these three men wherever possible, since it was not at all necessary. The Ministerial Council for the Reich Defense had the task to issue legal decrees which had the power of laws but it actually had nothing to do with the defense of the Reich. In other words, military matters were never discussed in this Ministerial Council for Reich Defense, nor did they negotiate on any foreign political questions or propaganda. In principle, they issued decrees which had the force of laws, and the meetings only took place until December 1939, and after that they merely used the system of written circulation of decrees, and meetings after that did not take place.

H0104 - 0076

Q In connection with occupied territories, there appears to have been a Central Department in the Ministry of the Interior. This Central Department has been quoted by the Prosecution as evidence for the fact that Frick had considerable administrative powers and responsibilities for occupied territories. Are you able to say anything about the Central Department?

A The Central Department had two main tasks. One was the recruiting of civil servants. The second was to give assistance in connection with the publication of laws and decrees in occupied territories.

Q Such a department became necessary because the occupied territories required personnel and because the Reich Commissioners in the occupied territories, who were directly under the Fuehrer's command, handled their problems partly through me. If one had decided to settle personnel problems within that framework, then I would have had to do it, but I had no instrument for it. I had only a staff of twelve, and I had no organization in the country, nor did I have any executive powers. Thus, the Minister of the Interior was included, since he had the civil service instrument at his disposal.

Q You just said that the Central Department had given assistance in issuing decrees in the occupied territories. Was it possible for the Central Department to issue a decree referring to Norway or any occupied territory, say for instance, Norway? Could they publish such a decree?

A No, not actually. Only after the Reich Commissioner in question had agreed.

Q Was it customary for the Central Department at any time to publish decrees referring to any certain occupied territory?

A To my knowledge that has never happened. I do not know of a single case where the Central Department has published a decree.

Q It has been stated that there is a decree from the Minister of the Interior which ruled on the question of citizenship with reference to occupied territories.

A Do you mean German citizenship?

Q Yes.

H0104 - 0077

A Yes, that is an interior matter, an internal German matter.

Q Did not the Central Department have the right to issue instructions to either the German Deputy or authorized persons in occupied territories, say the Commissioner for Norway, or did they have the right to issue instructions to the German service departments?

H0104-0078

A No, they did not have any such right.

Q The Prosecution has further stated that the Central Department also had the right to issue instructions in those territories for which it had not been specifically appointed. I s there any legal basis or is there any practical example where the Central Department interfered with the jurisdictior for occupied territories?

A No, none is known to me.

Q Would you say that it is correct to say that the civil administration in the occupied territories always was immediately subordinate to Hitler as the Fuehrer, no matter what their designation was?

A In occupied territories the Reich Commissioners were subordinated, as were the chiefs of the civil administration, immediately to the Fuehrer.

Q Did Frick, as Minister for the Interior, have the power to issue orders with reference to occupied territories where the German police was active?

A No, the police authority in occupied territories was vested in Himmler in co-operation with the commissioners. The Minister of the Interior had nothing to do with the police in occupied territories.

Q Does not the jurisdiction of the Minister of the Interior arise from the fact that Himmler was subordinate to Frick in the Ministry of the Interior?

A There might have been the possibility to issue instructions as far as Germany was concerned, but not as far as the occupied territories are concerned, and just how far this applied to the German Reich is another problematical question.

Q I shall come to that later in detail. Can you tell me anything about the powers of the Minister of the Interior regarding the police during that time when the police was still under the jurisdiction of the counties, 1933 to 1936?

A Well, his powers were very limited, and I cannot tell you any of the details.

Q Did he have the right to supervise?

A Yes, the Reich had the right of supreme supervision.

H0104-0079

Q You know, of course, that later on, through decree, Himmler was appointed to be Reichleiter of the German police in the Ministry of the Interior, do you not? Do you know who originated that designation?

A Yes, I participated at the time. The proposal for such a title appears to have originated from Himmler. I objected to this title for two reasons. Two different matters were being thrown together; the Reich Fuehrer SS, which is a Party organization, and the State organization, the chief of the Police. The Reichsleiter SS has the rank of Reich Leader in the Party, which is equivalent to a Minister, and on the other side you have the chief of police, who has the position of a secretary of state in the Ministry of the Interior and who is subordinate to the Ministry of the Interior, but Himmler insisted on that designation, and the Fuehrer considered that he was right. My objections were proved correct by the facts, because on one side the right to issue instructions which the Reich Minister of the Interior had with reference to the police now became extremely problematical, since Reichsfuehrer Himmler was giving instructions to police who were SS, and he could give them instructions as Reichsfuehrer SS, and the Ministry of the Interior could not interfere, and it was a habit of his that he appointed police officials as SS officers, so that you could never know in what capacity he was acting. Was he acting as member of the SS, or was he acting as a policeman? And the subordination in the Ministry of Interior later on became almost irrelevant, because, first of all, Himmler used to leave out the Chief of the German Police designation in the Ministry, and as far as administration was concerned, he merely called himself Minister of the Interior, and he no longer considered himself under the jurisdiction. When Minister Frick raised a complaint about this which he addressed to me and which I was supposed to take to the Fuehrer, the Fuehrer told me, "Tell Frick to consider Himmler as Chief of the German Police and not to interfere with him too much. He is looking after the police very well. Where possible, he ought to give him a free hand." Thus, though perhaps not by special decree, there was in practice created a limitation on the jurisdiction on the part of the Minister of the Interior, if it was not altogether cancelled.

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Q You have just said that Himmler on his own exercised jurisdiction over police organizations without worrying very much about what Frick wanted, but then there was a channel of orders as far as the police were concerned when Hitler himself gave orders. Did he give them to Frick or did he give them to Himmler?

A Normally the Fuehrer gave these instructions to Himmler. If he gave instructions to me which were referring to the police sector then I mostly handed them on to the Minister of the Interior or at least I informed him.

Q. Do you know anything regarding the question whether concentration camps were presented in the budget of the Reich or whether they were in the budget of the SS?

A. As far as I know -- but I can't say this for certain -- the money for concentration camps did not appear in the budget of the Reich. But what was the case was that the Reich Minister of Finance would receive an over-all payment and pay it to the Party once a year. This was taken care of by the Reich Treasurer. He, in turn, distributed it to the various Party organizations, so that the Reich Leader SS would receive an over-all payment for the SS and quite probably he used that for that finance. I can't recollect that I have ever seen any figure, any sum, which was referring to concentration camps in the budget.

Q. Do you know anything regarding the fact that Himmler, giving the reason that means for concentration camps were being raised through the SS, has denied the right of the Minister of the Interior to interfere with these matters?

A. No, I don't know anything about that.

Q. I now have some questions referring to another problem. Do you know anything about Himmler's efforts to kill insane persons painlessly?

A. The first time that thought occurred to Hitler was in the autumn of 1939. On that occasion the Secretary of State in the Ministry of the Interior, Dr. Conti, received the task of investigating this problem. He was told to discuss the legal angle with me. I spoke against the execution of any such procedure but since the Fuehrer insisted I suggested that this matter should be given all legal guarantees and be ruled upon by a law, because promptly I drafted a law and the Secretary of State was then relieved of the task.

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In 1940 the task was given to Reich Leader Buhler. He, Buhler, reported to the Fuehrer, and I wasn't present. And then he came to see me, and I showed him my draft of the law and stated the objections I had to the whole thing. And he left. Then I presented the draft law to the Fuehrer and he did not approve it, but he didn't turn it down altogether. However, he excluded me and he gave authority for the killing of incurable insane people to Reich Leader Buhler, and the medical officer, Professor Dr. Brandt. I didn't participate in the draft of that authority. As far as I was concerned, the the matter was settled, since the Fuehrer didn't wish to have a law and since he had given others the authority to carry it out.

Q. You have just said that the Fuehrer gave the task to the Secretary of State, Dr. Conti, in the Ministry of the Interior. Did that order go through Frick to Conti from Hitler?

A. I don't know. Secretary of State Conti was called on the telephone by the adjutant's office and he was told to call, and whether that went through Frick or not, that I don't know.

Q. Do you know anything about whether Frick himself did participate in these measures in some form or other?

A. No, nothing is known to me.

Q. Then I have a last group of questions, referring to the Protectorate in Bohemia and Moravia. When in August, 1943, Frick was appointed Protector for Bohemia and Moravia did the formal authority remain the same as before?

A. No, they were deliberately altered. In that was the immediate effect was that the Protector became a more or less decorative personality. The political guidance was to be transferred to the Minister, Frank. The Protector was merely the German head in the Protectorate, with comparatively few perogstives. He was to cooperate in forming the government in the Protectorate and furthermore he had a certain rather limited, rather small right to nominate civil servants, which in the main applied to the medium and lower grade civil servants, and then he had the right to grant pardons to sentenced criminals. Generally speaking the Minister for Bohemia

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and Moravia, Frank, had the duties to inform the Protector; that principally was the right which the Protector had; and apart from that, it was Hitler's wish that the Protector should not spend too much time in the Protectorate. In fact I have had to pass that wish on to him several times.

Q You have said that the Protector of Bohemia and Moravia during Frick's time was the head of German administration. Was State Minister Frank under Frick?

A Yes, he was the subordinate but the relation was rather that of the head of the State to the head of the Government; in other words, State Minister Frank had political control.

Q But isn't it right to say that Minister Frank was immediately subordinate to the Fuehrer?

A No, I don't think that was the situation. I haven't got a recollection of the degree, but I don't think he was immediately his subordinate I can't tell you that for certain now. At any rate, the Fuehrer only received Mr. Frank for political discussion and not as Protector.

Q I cannot find the paper; I shall have to clarify it later.

Do you know anything regarding the fact that Frick has expressly demanded that partition of authority and that to start with he refused to accept the position of Protector in Bohemia and Moravia and only when he said that outwardly, that he couldn't bear responsibility, did that partition actually take place?

A The fact that Frick refused, to start with, to accept the position has been stated by me. And when this decree appeared in which the rights of the Protector were laid down, which was a decree which wasn't published, Dr. Frick quite rightly raised the objection, saying then, "As far as the outside world is concerned, I have responsibilities which aren't known." So we published a notice in the press. In that, it said that the new Reich Protector would only have such and such rights," as I previously listed them here, such as the nomination of civil servants, the right to pardon and the right to cooperate in the forming of a government in the Protectorate. So that it had been stated to the outside world that Frick did not have the

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whole, full responsibility which had been held by former Reich Protectors.

Q Did you know anything about the fact that the reason for that partition of responsibility in the Protectorate was that Hitler didn't think that Frick would be hard enough to handle matters there?

A That is obviously the reason, yes.

DR. PANNENBECKER: In that case I have no further questions.

BY DR. SAUTER (Counsel for Defendant Funk):

Q So as to supplement the statements already made by the witness, I have only a very few questions. Dr. Lammers, the Defendant Funk beginning with the year 1933 was the Chief of Press of the Reich Government? That is known to you?

A Yes.

Q You yourself at that time were in your office, weren't you?

A Yes.

Q Did the Defendant Funk in that capacity of Chief of Press of the Reich Government exercise any influence on decisions made by the Cabinet or upon the contents of proposed laws, on the Cabinet?

A. That question must be answered with, who, he may have had a certain amount of influence from the point of view of the press, that is to say, if a law had too strongly worded a heading or if there were any mistakes in its wording, but he had no influence upon the contents. He was the Chief Of Press and as such he was first of all Ministerialdirektor and Secretary of State, and he had nothing to say about the contents.

Q Why was he appointed the Chief of Press -- why was he consulted for meetings?

A Because of the reporting done through the press.

Q That is to say, you mean only to inform the press regarding the decisions made by the Reich Cabinet?

A Yes, that's right.

Q But without exercising any influence on decisions or even to propose laws.

A Yes, that's right.

Q In that capacity of Chief Of Press of the Government, he, the defendant Funk, as you know, has held frequent press conferences with the

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Chancellor, Hitler. Do you know when these regular conferences of the Chief of Press of the Government with Hitler ceased?

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A At the latest, they ceased one year later. These were joint conferences. Funk and I, at the beginning, had as many as three to four meetings with the Fuehrer, and these meetings became fewer during the winter of '33. Later on, in '34, after Hindenburg's death, they ceased completely.

Q Who made these press reports to Hitler after that?

A The Chief of Press of the Party, Dr. Dietrich.

Q And with the exclusion of Dr. Funk?

A Yes.

Q Dr. Lammers, the defendant Funk later on became President of the German Reichsbank. Do you know anything about the facts regarding the person who would decide about credits to be given to the Reich by the Reichsbank?

A That decision was the Fuehrer's. The way it happened in practice was that the Minister of Finanne would apply for a credit. He did that in duplicate. One letter was addressed to the Reich Minister of Finance, with the corresponding instructions, and the second letter was addressed to the President of the Reichsbank.

Q Dr. Lammers, these technical details don't really interest us. What we are interested in is this. Did Dr. Funk, as President of the Reichsbank, have any influence regarding the question whether, and to what degree, the German Reich would be given credit by the Reichsbank, or had a right to call on the Reichsbank for that?

A Well, I can only answer your question with these technical details. All I received was those two documents. It was entirely a matter for signature. They were signed in one second by the Fuehrer, and then they were sent back. I had never had an order to negotiate with Mr. Funk, or previously, with Mr. Schacht, or the Minister of Finance. That was entirely a matter for signature; that is all it was.

Q So that according to your knowledge these directives and instructions came from Hitler and not the Reichsbank President?

A The instructions were signed by the Fuehrer.

Q Dr. Lammers, you have already mentioned this three-man college, or three-man collegium, which was formed during later years. Regarding

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this three-man college or collegium, it has been stated by the prosecution that Funk was a member of this committee, shall we say, and that he was the last resort for the entry of laws during the war.

A You can't say that at all. I stated already that these men acted independently, each in his own sphere, and that they had the right to publish decrees, with the agreement of the others; and they were very few, and quite insignificant decrees.

Q You mean low-grade decrees?

A Yes.

Q Furthermore, Dr. Lammers, the defendant Goering stated during his examination that the powers which Dr. Funk has as Plenipotentiary for Economy, I think in 1938, were mainly transferred to the Plenipotentiary for the Four Year Plan, or that, therefore, at any rate, Dr. Funk's powers, generally speaking, existed only on paper. I should be very interested in knowing whether these powers of the Plenipotentiary for the Four Year Plan were not inly in fact, but formally too, transferred to the Plenipotentiary for the Four Year Plan, in other words, Goering.

A That was based on a Fuehrer order, a special order issued by the Fuehrer.

Q When was that, approximately?

A The Four Year Plan was created in '36, and it was extended in 1940 for another four years. The special powers which Funk surrendered to the Four Year Plan are based on an agreement between Reichsmarshal Goering and Minister Funk, an arrangement which, as far as I know, had the Fuehrer's approval.

Q Dr. Lammers, you have already told the Tribunal that, I think, since 1938, no meetings of the Cabinet took place any longer and that, in the end, Hitler even prohibited informal discussions among ministers. Can you tell us anything regarding the question if, and how often, the defendant Dr. Funk had an opportunity -- during the seven years he was minister -- to talk to Hitler, to report to him, and so on and so forth?

A During the first years, as I have said, as Chief of the Press, he reported more frequently.

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Q But I mean later.

A Well, later, as Minister of Economy, he very rarely had an opportunity to see the Fuehrer. On many occasions he wasn't even consulted for conferences, conferences at which he ought to have been consulted. Quite often he complained to me about that, and I tried in every way to include him in such conferences as far as I could, but I didn't always succeed.

Q Dr. Lammers, I have noticed that records and minutes have been read out here where it is clearly said, and I think, by you, that the defendant Funk, as Minister for Economy, had asked you that he should participate in this or that important conference, and that you had expressly stated in that recprd that the Fuehrer had refused that, or that the Fuehrer had prohibited it. May I show you an example? For instance, I recollect a meeting of January 4, 1944 -- which is document 1292-PS -- where questions of labour were discussed. In those minutes it says -- once more written by you -- that the application from Funk to participate had been refused. Can you recollect such cases, and can you give us the reasons?

A Yes, I can remember such cases, but I don't know whether they were mentioned in the record. Quite possible I informed Mr. Funk -- and I tried everything to arrange that Funk would be consulted. The Fuehrer, however, refused.

Q The reasnn?

A Frequently the Fuehrer would object to it, admitting that there were reasonable objections from Funk. He was sceptical about him; he just didn't want him there.

Q Witness, in April of 1941 you are supposed to have informed defendant Funk that Rosenberg, in accordance with an order of Hitler, was appointed for the coordination of matters in the Eastern Territories. That message. you are supposed to have passed on to Goering and Keitel, as well as to Funk. From that fact the conclusion has been drawn by the prosecution that Funk was one of the deciding persons who were concerned with the preparation for aggressive war against Russia.

Can you tell us if, and if possible why, you passed that message to the defendant Funk at that time?

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A Either the Fuehrer told me to -- which I don't think was the case -- or I was under the impression that because of economic reasons Funk would be interested in that message. It was because of a personal relationship that I passed it on to him, and I can't recollect today that I had any particular reason. Of course, I passed the same message on to others, but probably not in writing. I think the others may have received it verbally.

Of course, as far as an aggressive war was concerned, that was not mentioned when Rosenberg was given that task. He was supposed to be a political representative for Eastern Territories. He was to work on questions referring to foreign peoples.

Q Dr. Lammers, roughly at the same time -- that is to say, the spring of '41, and shortly before the beginning of the Russian campaign -- you are supposed to have had some further discussions with the defendant Funk. They are supposed to have been concerned with the question of how one could possibly expect the foreign political situation, with reference to Russia, to develop. On that occasion you are supposed to have told defendant Funk something regarding the reasons why Hitler considered the possibility of a war against Russia as predominant. What did you tell defendant Funk at that time regarding these preparations for the war at one time or another?

A It can only be what I knew myself at the time, namely, information which the Fuehrer had given me, that there had been troop concentrations in Russia which had been observed, which allowed the conclusion to be drawn that a conflagration with Russia might occur. These were the words the Fuehrer used. He said that the thing with Russia would happen and that he wished that one man -- and that was Rosenberg -- should concern himself with Eastern questions, since the possibility of an armed conflict with Russia did exist. That is probably what I told Funk. I can't imagine what else I could have told him.

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Q. At that time, Dr. Lammers, you are supposed not only to have mentioned troop concentrations on the Russian side along the eastern frontiers of Germany, but also the Russian march into Bessarabia.

A. Yes, it is possible that that was the case. Bessarabia, very probably. I may have even mentioned the fact that discussions which had taken place with Russia, with Molotov, had had an unsatisfactory result.

Q. In that connection, and since you have referred to the discussions with Molotov, you are supposed to have told Defendant Funk particularly that Russia was making considerable demands in the Blakans, and regarding the Baltic Sea, and that for that reason, because of these demands, Hitler did expect the possibility of war. Could that be correct?

A. It is possible that we have talked about it, but I can't recollect it for certain.

Q. And then you know that an organization was established under the heading central planning board. You know that, don't you?

A. Yes.

Q. Defendant Funk was made a member of the central planning, and I think this was at the end of 1943. Is it correct that Funk, when he joined the central planning board, was participating no longer and no longer interested in the use of laborers in the German Labor market?

A. I believe that Funk's only interest in central planning was to the extent that he was receiving raw materials for civilian production.

Q. You mean in the country?

A. Yes, in the country. That was as far as he was interested in central planning board, since he was responsible for distribution of these goods, and civilian production had been transferred to Minister Speer. I think that was at the very moment when the minister for armament and munitions had been changed to minister for armament and war production. I think it was in 1943. Thus Funk, was, of course, very interested in raw materials, but workers, from that standpoint, interested him very little, in my opinion, since he hadn't enough raw material to allow the civilian production to work.

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Q. And then, Dr. Lammers, I have one last question: Can you remember that Defendant Funk in the year 1944 -- I think it was in February and later on during subsequent months -- has visited you and told you of his sufferings and sorrows regarding the unsatisfactory position which he was occupyling as minister of economy and plenipotentiary for economy, and that he talked to you about the question on that occasion whether his conscience would allow that he retain his position as president of the Reichsbank and Reich economy minister, and, if yes, then why he could do so or if he could resign from his position? Perhaps you can talk about that.

A. I have discussed that question frequently with Funk. It was in 1943, but particularly in 1944. I know that he was considerably worried and that he wanted very much to have an opportunity to take his worries to the Fuehrer personally. If he did remain in office then it was only because he said that during wartime he couldn't resign from his position -- that wouldn't be the right thing for a good German to do, to resign during wartime. But that was his greatest wish -- to be able to report to the Fuehrer regarding the economic situation, and particularly about the interferences committed by the gauleiters in various districts, and that it was his greatest wish that he could report to the Fuehrer regarding the war situation and that he could talk to the Fuehrer about a possible end of the war. All this took place in the beginning of 1944. I made several attempts to take Funk to the Fuehrer, and I nearly succeeded, since I had camouflaged the real reason and pretended that there was another reason -- the question of some finances.

I took it to the Fuehrer, but he found out, and although Funk had been waiting for days and days he refused, the Fuehrer refused to hear him, probably due to Bormann's efforts. So he just didn't succeed in getting to the Fuehrer and I didn't succeed in taking him there.

DR. SAUTER: Mr. President, I have no further question.

DR. DIX (Counsel for Schacht): Mr. President, if you wish to close the session at five, then I am afraid I have to tell you that I won't be able to finish by five, and I am reluctant to break my examination. May I ask you, therefore, if we should extend the session or whether we should break now.

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THE PRESIDENT: I think you better go on, Dr. Dix; we have nearly ten minutes.

BY DR. DIX:

Q. Witness, other witnesses and yourself -- you because of great experience and on the strength of your position as chief of the chancellory at the seizure of pow r until the collapse, have

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stated that applications to resign were prohibited through Hitler. I don't want to put any more questions on that subject, therefore. I merely want to refer to the attempts to resign which Schacht had actually made. May I ask you, therefore, to start with, to answer the general question with yes or no; did Schacht apply to resign or not?

A Yes.

Q I should now like to discuss the individual applications to resign, with you. I can't expect you, of course, without any help, to recall individual occasions. May I have your permission therefore, to help your memory along in connection with the first question.

You remember that in March, 1937, when Schacht stopped Reichsbank credits or rather gave notice with reference to them, and when you visited him. Wat that the time of the first resignation attempt?

A I remember that very accurately, since Schacht's application to resign was considered unpleasant by Hitler, and he gave me the task to put the matter right with Schacht. Subsequently I made several personal visits to Schacht, but he refused to withdraw his resignation, and he gave as his reason that he couldn't approve any longer of the credit policy of the Fuehrer. He, so he says, was afraid of an inflation and from that he would have to protect the German nation.

THE PRESIDENT: Dr. Dix, is it necessary to go into the details? We gather that there are several offers to resign. Is it necessary to go into the details of each one?

Q In that case we leave it, and it is enough for me if you can confirm, Doctor, that in March 1937 Schacht did offer to resign.

A Yes, and then there was a compromise and Schacht to start with continued for yet one more year, although the Reichsbank law had intended to have him there for four years.

Q Please, will you try and remember August, 1937, when Goering had issued a decree referring to mines about which it was Schacht's view that this was an infringement of his sphere, and there was a second offer to resign, wasn't there?

A Yes.

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Q And didn't Schacht write a letter on that occasion which was addressed to Goering, the 5th of August, a copy of which he had sent to Hitler through you? Can you remember that?

A Yes. That letter was the reason why Hitler dismissed Schacht afterwards.

Q Now we are coming to the war. Is it right to say that during the war Schacht repeated his offers to resign? May I remind you, for instance, of the summer of 1941 and a memorandum which Schacht wrote to Hitler regarding the necessity of an immediate peace?

A The first offer to resign happened because it had been prohibited to listen to foreign broadcasting stations. Schacht had been forbidden like many others to listen to foreign stations, andhe considered that a reason for a complaint and offered to resign, whether in writing or verbally I can't tell you. But at any rate he was refused, and later he submitted a memorandum in which he mentioned the end of the war and the political, economic, and military situation. I had to reply to Schacht and tell him that the Fuehrer had read the memorandum and had nothing to say in reply. Subsequently, in 1942, Schacht made another inquiry, and told me to ask the Fuehrer if the Fuehrer was disposed to receive yet another memorandum. To that the Fuehrer gave me the order to write to Schacht and tell him to refrain from submitting any further memoranda.

DR. DIX: I could, Mr. President, quote the important points of that memorandum for the witness, if the Tribunal knows the details of that memorandum, which I haven't got and which could only be ascertained from the memory of the witness. I should very much like to put them before him. If on the other hand the Tribunal is of the opinion --

THE PRESIDENT: Have you got the memorandum?

DR. DIX, No, we have only got that memorandum in our memory -- that is to say, Schacht remembers the contents.

THE PRESIDENT: If the memorandum is lost and you can prove the loss you can put the contents of it to the witness. If you prove the loss of the memorandum you can put the contents to the witness. If the contents are not relevant it is no good even for the witness. Are the contents of the document relevant?

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DR. DIX: Those points which I propose to quote, yes I do consider them relevant and they are not very long either, they are short.

THE PRESIDENT: So far as the question of proof is concerned the rule is, I think, if the document has been lost you can prove the contents of it and you can put it to the witness. Yes, you can put the points to him Dr. Dix.

DR. DIX: The question which you put to me involves considerable responsibility. At the moment I can assure you that in accordance with my conviction it has been lost but whether I can prove that it has been lost, that is something I cannot take the responsibility for at the moment. I am convinced it has been lost.

THE PRESIDENT: Herr Schacht presumably is going to say it was lost. You, of course, cannot prove it yourself but I mean you can prove it by Schacht.

DR. DIX: Yes, Schacht willconfirm it when he becomes a witness on the stand.

BY DR. DIX:

Q Well the, this was in September, 1941, that is to say after the great successes in Russia by the German Army and Schacht wrote in that memorandum to Hitler that Hitler had now reached the peak of his success and that this was the most favorable moment for him to aim at peace. During any further duration of the war --

MR. DODD: I suggest, would it not be more proper for counsel to ask this witness first of all whether or not he recalls the contents of the memorandum before reading what purports to be the contents.

THE PRESIDENT: I think he should, yes.

DR. DIX: It has been confirmed by the witness that he recollects the contents more or less, Dr. Lammers has said so.

THE PRESIDENT: I think you had better put it to him sentence by sentence and not all at once.

DR. DIX: I am not proposing to read it, your Lordship, I am merely trying to repeat the contents as Schacht remembers them. I cannot read it, of course, since I have not got it.

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THE PRESIDENT: Would you ask the witness if he remembers what the contents were, not putting it in a leading form.

DR. DIX: Yes, I shall certainly ask him. But I think he has answered that he cannot remember the details accurately so I am trying to give him some aid for his memory by giving him the main points.

THE PRESIDENT: Ask him what he does remember of it.

BY DR. DIX:

Q Well then, Dr. Lammers, without my presenting the main points to you, what do you remember?

A I think that it said in the memorandum of Schacht in the excerpts on economy, both as to Germany and abroad, that now in the autumn of 1941 the most favorable moment had come to begin negotiations to end the war and I think he also explained the world situation but I cannot remember how. He sketched the political situation in other countries. He talked about America, Italy, Japan and he compared the factors. The Fuehrer then looked at the memorandum and put it aside and he said:

"I have already disapproved of that, I do not want to have it."

As to further details, I do not know.

Q Now that you have mentioned other powers, do you remember that he had stated that the dropping out of Italy was merely a question of time, since the opposition group around the king would not give in until Mussolini was brought down?

A Yes, it is possible that it did say that but I cannot remember.

THE PRESIDENT: One moment. The Tribunal will adjourn now.

(Whereupon at 1710 hours the Tribunal adjourned to reconvene at 1000 hours on Tuesday, April 9, 1946.)